

**CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE
AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—
LICENSURE OF PROFESSIONAL COUNSELORS**

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Authority

The provisions of this Chapter 49 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)), unless otherwise noted.

Source

The provisions of this Chapter 49 adopted March 1, 2002, effective March 2, 2002, 32 Pa.B. 1197, unless otherwise noted.

GENERAL PROVISIONS

§ 49.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Accredited educational institution—A graduate school which is recognized as an institution of higher education or which is accredited by a regional accrediting association recognized by the Council for Higher Education Accreditation.

Act—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922).

Board—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

Client/patient—An individual, group or family for whom a licensed professional counselor provides professional counseling services. In the case of an individual with a legal guardian such as a minor or legally incapacitated adult, the individual is the client/patient.

Doctoral degree in a field closely related to the practice of professional counseling—Includes one of the following:

- (i) Doctoral degrees in social work, psychiatry, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.

(ii) Another doctoral degree in any applied behavioral science which is awarded after successful completion of a master's degree in a field closely related to the practice of professional counseling and that includes advanced (beyond the master's level) clinical instruction and advanced (beyond the master's level) coursework in any five of the educational requirements in § 49.2(1)—(8) (relating to educational requirements).

Doctoral degree in professional counseling—A doctoral degree which is awarded upon successful completion of a program which includes coursework that meets and builds upon the educational requirements in § 49.2.

Immediate family member—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

Institution of higher education—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System. See 22 Pa. Code § 33.102 (relating to definitions).

Master's degree in a field closely related to the practice of professional counseling—Includes one of the following:

- (i) Degrees in social work, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.
- (ii) A degree in any applied behavioral science that includes a practicum or internship and meets any five of the educational requirements in § 49.2(1)—(8).

Planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling—A program which includes coursework that meets the criteria in § 49.2.

Professional relationship—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed professional counselor and a client/patient and continuing thereafter until the last date of a professional service. If a licensed professional counselor sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed professional counselor provides a professional service to the client/patient.

Related field—Includes the fields of psychiatry, psychology, social work, marriage and family therapy, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

Sexual intimacies—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

- (i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.
- (ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.
- (iii) Sexual invitations.
- (iv) Soliciting or accepting a date from a client/patient.
- (v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed professional counselor.
- (vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

Supervisee—An individual who is fulfilling the supervised experience requirement for licensure.

Supervision—The act of overseeing, directing or instructing the activity or course of action of another.

Supervisor—An individual providing supervision to a supervisee who meets the criteria in § 49.3 (relating to qualifications for supervisors).

Authority

The provisions of this § 49.1 amended under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. § 1906(2)) and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3(a)).

Source

The provisions of this § 49.1 amended August 11, 2006, effective August 12, 2006, 36 Pa.B. 4469; amended January 25, 2008, effective January 26, 2008, 38 Pa.B. 484. Immediately preceding text appears at serial pages (325244) to (325246).

Cross References

This section cited in 49 Pa. Code § 49.13 (relating to licensed professional counselor).

§ 49.2. Educational requirements.

Educational requirements are as follows:

- (1) *Human growth and development*—(2 semester or 3 quarter hours) studies that provide an understanding of the nature and needs of individuals at all developmental stages.
- (2) *Social and cultural foundations*—(2 semester or 3 quarter hours) studies that provide an understanding of issues and trends in a multicultural and diverse society.
- (3) *Helping relationships*—(2 semester or 3 quarter hours) studies that provide an understanding of counseling and consultation processes.
- (4) *Group work*—(2 semester or 3 quarter hours) studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills and other group approaches.
- (5) *Career and lifestyle development*—(2 semester or 3 quarter hours) studies that provide an understanding of career development and related life factors.
- (6) *Appraisal*—(2 semester or 3 quarter hours) studies that provide an understanding of individual and group approaches to assessment and evaluation.
- (7) *Research and program evaluation*—(2 semester or 3 quarter hours) studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research.
- (8) *Professional orientation*—(2 semester or 3 quarter hours) studies that provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards and credentialing.
- (9) *Clinical instruction*—(Includes 100 clock hours of supervised practicum experience and 600 clock hours of supervised internship experience). The supervised internship experience shall begin after completion of the supervised practicum experience. Until March 2, 2007, this requirement may be satisfied by completion of a total of 6 semester hours or 9 quarter hours of practicum/internship experience.

Cross References

This section cited in 49 Pa. Code § 49.1 (relating to definitions).

§ 49.3. Qualifications for supervisors.

To qualify as a supervisor, an individual shall meet one of the following criteria:

- (1) Holds a license as a professional counselor and has 5 years experience within the last 10 years as a professional counselor.
- (2) Holds a license and has at least a master's degree in a related field and has 5 years experience within the last 10 years in that field.
- (3) Until January 1, 2006, meet the following criteria:
 - (i) Practices as a professional counselor.
 - (ii) Has 5 years experience within the last 10 years as a professional counselor.

Cross References

This section cited in 49 Pa. Code § 49.1 (relating to definitions); and 49 Pa. Code § 49.13 (relating to licensed professional counselor).

§ 49.4. Applicability of general provisions in Chapter 47.

Sections 47.2—47.4 (relating to applicability of general rules; meetings of the board; and licensure fees) apply to this chapter.

Source

The provisions of this § 49.4 adopted November 29, 2002, effective November 30, 2002, 32 Pa.B. 5885; corrected December 6, 2002, effective November 30, 2002, 32 Pa.B. 5957.

LICENSURE

§ 49.11. Licensure examination.

(a) The examination required as a prerequisite to being granted a license to hold oneself out as a licensed professional counselor shall be one of the following:

- (1) The National Counselor Examination for Licensure and Certification (NCE) given by NBCC.
- (2) The Certified Rehabilitation Counselor (CRC) Examination given by CRCC.
- (3) The Art Therapy Credentials Board (ATCB) Certification Examination given by ATCB.
- (4) The Board Certification Examination given by CBMT.
- (5) The practice examination of psychological knowledge given by the North American Association of Master's in Psychology (NAMP).
- (6) The Advanced Alcohol & Other Drug Abuse Counselor Examination (AAODA) given by the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse Inc. (IC & RC/AODA).
- (7) The Examination for Master Addictions Counselors (EMAC) given by NBCC.

(b) The applicant shall apply to the testing organization for admission to the applicable licensure examination and shall pay the required fee at the direction of the testing organization.

(c) The applicant shall be responsible for directing that the testing organization send examination results and other information requested to the Board.

(d) The passing grade for the examination will be determined by the Board.

Cross References

This section cited in 49 Pa. Code § 49.13 (relating to licensed professional counselor).

§ 49.12. General qualifications for licensure.

General qualifications and requirements for applicants for licensure are as follows:

- (1) The applicant is of good moral character.
- (2) The applicant has not been convicted of a felony, which shall include a judgment, an admission of guilt or a plea of nolo contendere, under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or of an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless the following apply:
 - (i) At least 10 years have elapsed from the date of conviction.
 - (ii) The applicant satisfactorily demonstrates to the Board that the applicant has made significant progress in personal rehabilitation since the conviction, so that licensure of the applicant would not be expected to create a substantial risk of harm to the health and safety of the applicant's clients or the public or a substantial risk of further criminal violations.
- (3) The applicant has submitted an application for licensure on forms furnished by the Board. The application for licensure may be obtained by contacting the Board by mail at: State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, (717) 783-1389 or by e-mail at: socialwo@pados.dos.state.pa.us.
- (4) The applicant has submitted the application licensure fee required by the Board, by check or money order, payable to the "Commonwealth of Pennsylvania."
- (5) The applicant has submitted two certificates of recommendation on forms furnished by the Board.
- (6) The applicant has completed at least 3 hours of training in child abuse recognition and reporting in accordance with § 49.58(a) (relating to child abuse recognition and reporting—mandatory training requirement).
- (7) The applicant has submitted an affirmation signed by the applicant verifying the information on the application.

Authority

The provisions of this § 49.12 amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.12 amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial page (358316).

Cross References

This section cited in 49 Pa. Code § 49.13 (relating to licensed professional counselor); 49 Pa. Code § 49.15 (relating to exemption from licensure examination); 49 Pa. Code § 49.16 (relating to application for licensure by reciprocity); and 49 Pa. Code § 49.18 (relating to licensure by endorsement).

§ 49.13. Licensed professional counselor.

(a) *Conditions for licensure.* To be issued a license to hold oneself out as a licensed professional counselor, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

- (1) Satisfied the general requirements for licensure of § 49.12 (relating to general qualifications for licensure).
- (2) Passed the examination required by § 49.11 (relating to licensure examination).
- (3) Successfully met one of the following education requirements:
 - (i) Has successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling as defined in § 49.1 (relating to definitions) including one of the following:
 - (A) A master's degree granted on or before June 30, 2009, in professional counseling from an accredited education institution.
 - (B) A master's degree granted on or before June 30, 2009, in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.
 - (ii) Has successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling as defined in § 49.1 including one of the following:
 - (A) A 48 semester hour or 72 quarter hour master's degree in professional counseling from an accredited education institution.
 - (B) A 48 semester hour or 72 quarter hour master's degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.
 - (iii) Holds a doctoral degree in counseling from an accredited educational institution.
 - (iv) Holds a doctoral degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited education institution.
- (4) Has met the following experience requirements:
 - (i) Individuals who met the educational requirements of paragraph (3)(i) or (ii), shall have completed at least 3,000 hours of supervised clinical experience meeting the criteria in subsection (b), obtained after the completion of 48 semester hours or 72 quarter hours of graduate coursework. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 49.1 and § 49.3 (relating to qualifications for supervisors).
 - (ii) Individuals who meet the educational requirements of paragraph (3)(iii) or (iv) shall have completed at least 2,400 hours of supervised clinical

cal experience meeting the criteria in subsection (b), 1,200 hours of which was obtained subsequent to the granting of the doctoral degree. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in §§ 49.1 and 49.3.

(b) *Supervised clinical experience.* Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the practice of counseling consistent with the applicant's education and training.

(1) At least one-half of the experience shall consist of providing services in one or more of the following areas:

- (i) Assessment.
- (ii) Counseling.
- (iii) Therapy.
- (iv) Psychotherapy.
- (v) Other therapeutic interventions.
- (vi) Consultation.
- (vii) Family therapy.
- (viii) Group therapy.

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in § 49.1. At least 1/2 of the required hours shall be supervised by a supervisor meeting the qualifications in § 49.3(1) and (3).

(3) A supervisee shall disclose his status as a supervisee to each patient and obtain written permission to discuss the patient's case with the supervisor.

(4) The supervisor shall oversee, direct, recommend and instruct the professional counseling activities of the supervisee.

(i) A supervisor who is temporarily unable to provide supervision shall designate another supervisor as a substitute.

(ii) Although the supervisor shall continue to bear the ultimate responsibility for supervision, those to whom supervisory responsibilities are delegated shall be individually responsible for activities of the supervisee performed under their supervision.

(5) The supervisor, or one to whom supervisory responsibilities have been delegated, shall meet with the supervisee for a minimum of 2 hours for every 40 hours of supervised clinical experience. At least 1 of the 2 hours shall be with the supervisee individually and in person, and 1 of the 2 hours may be with the supervisee in a group setting and in person.

(6) A supervisor shall supervise no more than 6 supervisees at the same time. If this paragraph creates an undue hardship on a supervisee, the supervisor and supervisee may request an exception to this paragraph. The request shall state, in writing, the reasons why this paragraph creates a hardship on the supervisee and why the supervisee is not able to obtain a supervisor who meets the requirements of this paragraph. Before making a determination, the Board may require a personal appearance by the supervisee and supervisor.

(7) A supervisor who wishes to terminate supervision during the training period shall give the supervisee 2 weeks written notice to enable the supervisee to obtain another qualified supervisor. A supervisor may not terminate supervision when termination would result in abandonment of the supervisee's client/patient.

(8) Supervised work activity will be counted toward satisfying the experience requirement only if it takes place in a single setting for either, first, at least 30 hours per week but no more than 40 hours per week during at least a 3-month period or, second, at least 15 hours per week for at least 6 months.

(9) The supervised clinical experience shall be completed in no less than 2 years and no more than 6 years, except that no less than 500 hours and no more than 1,800 hours may be credited in any 12 month period.

(c) *Supervised clinical experience obtained within 5 years prior to March 2, 2002.*

(1) For hours of supervised clinical experience obtained within 5 years prior to March 2, 2002, the applicant shall present evidence of having acquired at least one-half of those hours under the supervision of a professional counselor. The applicant shall also have acquired hours of supervision at a ratio of 2 hours of supervision per 40 hours of supervised clinical experience, one-half of which may be in group supervision and at least one-half of which shall be provided by a professional counselor.

(2) Supervised clinical experience obtained under this subsection is not subject to the requirements of § 49.14 (relating to standards for supervision).

Authority

The provisions of this § 49.13 amended under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. § 1906(2)).

Source

The provisions of this § 49.13 amended October 10, 2014, effective October 11, 2014, 44 Pa.B. 6557. Immediately preceding text appears at serial pages (325249) to (325251).

Cross References

This section cited in 49 Pa. Code § 49.14 (relating to standards for supervisors).

§ 49.14. Standards for supervisors.

Supervisors, and those to whom supervisory responsibilities are delegated under § 49.13(a)(4) (relating to licensed professional counselors) shall comply with this section. Supervisors will be asked to attest to compliance on the verification of experience form which shall accompany the supervisee's application for licensure. The Board reserves the right to require a supervisor by documentation or otherwise to establish to the Board's satisfaction that compliance occurred.

(1) The supervisor shall be qualified by training and experience to practice in the supervisee's areas of supervised practice.

(2) The supervisor may not be a relative of the supervisee by blood or marriage, may not be involved in a dual relationship which obliges the supervisor to the supervisee and may not engage in treatment of the supervisee.

(3) An individual whose license has been actively suspended or revoked by a licensing Board will not qualify as a supervisor.

- (i) If during the period of supervision, the supervisor's license is suspended or revoked, the supervisor shall immediately notify the supervisee and immediately cease supervision. Credit will be given for hours completed prior to the disciplinary action.
- (ii) The supervisee shall obtain a new supervisor to complete the required experience.
- (4) The supervisor shall be responsible for ensuring that the requirements of § 49.13(b) are met.
- (5) The supervisor shall be accessible to the supervisee for consultation.
- (6) The supervisor shall be empowered to recommend the interruption or termination of the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Hours accumulated for activities not approved by the supervisor will not count towards satisfying the 3,600 hours of supervised experience.
- (7) The supervisor shall ensure that the supervisee's status as a supervisee is made known to the supervisee's patients, and also ensure that the supervisee has obtained written permission from each patient to discuss his case with the supervisor.
- (8) The supervisor shall establish objectives to be achieved by the supervisee during supervision.
- (9) The supervisor shall review issues of practice and ethics with the supervisee.
- (10) The supervisor shall maintain notes or records of scheduled supervisory sessions and provide these records to the Board upon request.
- (11) The supervisor shall observe client/patient sessions of the supervisee or review recordings of these sessions.
- (12) In supervisory meetings, the supervisor shall discuss the supervisee's level of work—for example, the supervisee's areas of competence and areas of needed improvement.
- (13) The supervisor shall provide the supervisee with recommendations bearing on further professional development, professional study and skills necessary for independent practice.
- (14) The supervisor shall prepare written evaluations or reports of progress which shall delineate the supervisee's strengths and weaknesses. These evaluations or reports shall be discussed with the supervisee on at least a quarterly basis.
- (15) The supervisor shall encourage the supervisee to work with professionals in other disciplines as indicated by the needs of each client/patient and shall periodically observe these cooperative encounters.
- (16) The supervisor shall encourage the supervisee to access multidisciplinary consultation, as necessary.

Cross References

This section cited in 49 Pa. Code § 49.13 (relating to licensed professional counselor).

§ 49.15. Exemption from licensure examination.

A license will be issued without examination to an applicant who meets the following requirements. The applicant shall have:

- (1) Satisfied the general requirements for licensure of § 49.12 (relating to general qualifications for licensure).
- (2) Submitted an application provided by the Board and accompanied by the required fee.
- (3) Submitted an application by February 19, 2002. (Editor's Note: The act of February 13, 2002 (P. L. 83, No. 4) extended the deadline for the filing of an application by 1 year.)
- (4) Demonstrated proof of practice of professional counseling for at least 5 of the 7 years immediately prior to the date of application for license.
- (5) Have successfully met one of the following educational requirements:
 - (i) Holds a doctoral degree in professional counseling from an accredited educational institution.
 - (ii) Holds a doctoral degree in a field closely related to the practice of professional counseling from an accredited educational institution.
 - (iii) Holds a master's degree of at least 48 semester hours or 72 quarter hours in professional counseling or a field closely related to the practice of professional counseling from an accredited educational institution.
 - (iv) Holds a master's degree of less than 48 semester hours or 72 quarter hours but not less than 36 semester hours or 54 quarter hours in professional counseling or a field closely related to the practice of professional counseling and has within the past 10 years completed sufficient continuing education satisfactory to the Board to equal the number of hours needed to achieve a total of 48 semester hours or 72 quarter hours at a ratio of 15 continuing education hours equaling 1 semester hour. Continuing education satisfactory to the Board shall meet the following requirements:
 - (A) Master's level difficulty.
 - (B) Excludes courses in office management or practice building.
 - (C) Any course approved by NBCC, CRC, CBMT, AATA, ADTA, the Pennsylvania Certification Board (PCB) or NADT, or which is approved for continuing education credit for licensed psychologists or licensed social workers, and which does not include a course in office management or practice building.
- (6) Demonstrated holding one of the following:
 - (i) The National Certified Counselor (CC) certification from NBCC and having passed the National Counselor Examination given by the NBCC.
 - (ii) CRC certification from the CRCC and having passed the CRC Examination given by the CRCC.
 - (iii) The Registered Art Therapist (ATR) certification from the ATCB and having passed the Board Certification Examination given by the ATCB.

(iv) The Academy of Dance Therapists Registered (ADTR) certification from the ADTA and having passed the National Counselor Examination given by the NBCC.

(v) The Music Therapist-Board Certified certification from CBMT and having passed the Board Certification Examination given by the CBMT.

(vi) The Registered Drama Therapist (RDT) certification from NADT and having passed the National Counselor Examination given by NBCC.

(vii) The Certified Clinical Mental Health Counselor (CCMHC) certification from the Academy of Certified Clinical Mental Health Counselors (ACCMHC) and having passed the credentialing examination given by ACCMHC.

(viii) The Nationally Certified Psychologist (NCP) certification from the NAMP, and having passed the Practice Exam of Psychological Knowledge given by NAMP.

(ix) The Certified Addictions Counselor Credential (CAC) from PCB, and having passed the Advanced Alcohol and Other Drug Abuse Counselor Examination given by the IC & RC/AODA.

(x) The Master's Addictions Counselor Credential from NBCC, and having passed the Examination for Master's Addictions Counselors given by NBCC.

(xi) The Master Addiction Counselor credential from the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) and having passed the examination for Master Addiction Counselors given by NAA-DAC.

Source

The provisions of this § 49.15 amended March 14, 2003, effective March 15, 2003, 33 Pa.B. 1346. Immediately preceding text appears at serial pages (287471) to (287473).

Notes of Decisions

Delegation; Vagueness

The General Assembly properly delegated authority, with sufficient standards, to the Board to promulgate § 49.15. The section is therefore valid. It also provides adequate notice of the requirements under the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922), and is therefore not unconstitutionally vague. *National Association of Forensic Counselors v. State Board of Social Workers, Marriage and Family Therapists and Professional Counselors*, 814 A.2d 815 (Pa. Cmwlth. 2003).

§ 49.16. Application for licensure by reciprocity.

(a) A license shall be issued based on reciprocity to an applicant who meets the following requirements. The applicant shall have:

(1) Satisfied the general requirements for licensure of § 49.12 (relating to general qualifications for licensure).

(2) Provided a letter from other jurisdiction registration boards where the licensed professional counselor is licensed, certifying licensure and reporting any violations.

(3) Demonstrated qualifications at least equal to the qualifications required by the act and this chapter.

(b) The Board will accept an applicant's examination grades taken in another jurisdiction, as furnished through the professional examination reporting service or from the jurisdiction which administered the examination, in lieu of taking the Commonwealth's required examination.

(1) The applicant shall show that the examination taken in the other jurisdiction is similar to the one offered by the Commonwealth and that the applicant passed the examination with a grade at least equal to the passing grade set by the Commonwealth.

(2) The other jurisdiction in which the applicant is licensed or certified must grant licenses by reciprocity to residents of this Commonwealth who possess a license as a professional counselor under the act and this chapter.

§ 49.17. Department of Health licensing of substance abuse services provided by professional counseling practices—statement of policy.

(a) *Background and purpose.* The Board licenses professional counselors in this Commonwealth. The Department of Health licenses providers who operate facilities in this Commonwealth. Licensed professional counselors may, within the scope of their practice, encounter clients who are seeking help with drug or alcohol addiction, who may need drug or alcohol addiction treatment, or who may have drug or alcohol addiction issues as part of the broader range of issues for which they seek counseling from licensed professional counselors. This section clarifies when licensed professional counselors who provide the services will be considered to be operating a drug and alcohol treatment facility requiring licensure from the Department of Health. This section expresses the joint position of the Board and the Department of Health on this matter.

(b) *Statutory authority.* The act authorizes the Board to license professional counselors and to regulate the practice of professional counseling in this Commonwealth. Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1059), and regulations promulgated thereunder in 28 Pa. Code Chapter 709 (relating to standards for licensure of free-standing treatment facilities), vest the Department of Health with all functions, powers and duties with regard to the regulation, supervision and licensing of drug and alcohol facilities and services.

(c) *Guidelines.*

(1) This joint statement of policy clarifies when practitioners providing drug and alcohol treatment services will be considered to be operating a drug and alcohol treatment facility requiring licensure from the Department of Health. The term "facility" is defined by the Department of Health in 28

Pa. Code § 701.1 (relating to definitions) as “the physical location in which ongoing, structured, and systematic drug and alcohol services are delivered.” Accordingly, the Department of Health and the Board have agreed upon the following. In determining whether any person, partnership, corporation, or other legal entity intending to provide services is a facility as defined in 28 Pa. Code § 701.1, and thus subject to licensure, the Board will consider the following criteria:

- (i) Whether a primary purpose of an individual or entity is to render a program of psychological, social or other therapies on a planned and regularly scheduled basis to assist individuals to deal with patterns of drug and alcohol use, abuse or dependency.
 - (ii) Whether an individual or entity publicly advertises or promotes itself as providing a program of distinct drug and alcohol services.
 - (iii) Whether an individual or entity employs staff who specialize in the provision of drug and alcohol services.
- (2) If a facility meets one or more of the criteria in paragraph (1), a license may be required. The Department of Health will assess the circumstances and make a fact specific, case-by-case determination whether a license is necessary. This policy does not apply to substance abuse services that are being provided by an individual licensed professional counselor that are compatible with the practitioner’s education and professional competence.

Source

The provisions of this § 49.17 adopted May 27, 2005, effective May 28, 2005, 35 Pa.B. 3150.

§ 49.18. Licensure by endorsement.

To be issued a license by endorsement without examination as a professional counselor, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

- (1) Satisfied the general requirements for licensure of § 49.12 (relating to general qualifications for licensure).
- (2) Satisfied the educational requirements in section 7(f)(2) of the act (63 P. S. § 1907(f)(2)) and § 49.13(a)(3) (relating to licensed professional counselor).
- (3) Holds a professional counselor license that is in good standing from another state. The applicant shall provide a letter from the other state’s licensing authority where the professional counselor is licensed certifying licensure and reporting any disciplinary history.
- (4) Demonstrates to the Board’s satisfaction that the applicant has completed a minimum of 3,000 hours of supervised clinical experience that conforms to the requirements of the state in which the applicant is currently licensed.

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(5) Demonstrates to the Board's satisfaction that the applicant has, at a minimum, been actively engaged in the practice of professional counseling for 5 of the last 7 years immediately preceding the filing of the application for licensure by endorsement with the Board.

Source

The provisions of this § 49.18 adopted August 26, 2011, effective August 27, 2011, 41 Pa.B. 4627.

SEXUAL MISCONDUCT

§ 49.21. Prohibited conduct.

Sexual intimacies between a licensed professional counselor and a current client/patient, or an immediate family member of a current client/patient, are prohibited.

Source

The provisions of this § 49.21 adopted August 11, 2006, effective August 12, 2006, 36 Pa.B. 4469.

Cross References

This section cited in 49 Pa. Code § 49.24 (relating to disciplinary proceedings); and 49 Pa. Code § 49.25 (relating to impaired professional program).

§ 49.22. Former sexual partners as clients/patients.

Licensed professional counselors may not accept as client/patients individuals with whom they have engaged in sexual intimacies.

Source

The provisions of this § 49.22 adopted August 11, 2006, effective August 12, 2006, 36 Pa.B. 4469.

Cross References

This section cited in 49 Pa. Code § 49.24 (relating to disciplinary proceedings); and 49 Pa. Code § 49.25 (relating to impaired professional program).

§ 49.23. Sexual intimacies with a former client/patient or an immediate family member of a former client/patient.

(a) Sexual intimacies between a licensed professional counselor and a former client/patient, or an immediate family member of a former client/patient are prohibited for 7 years following the termination of the professional relationship.

(b) Following the passage of the 7-year period, licensed professional counselors may engage in sexual conduct with a former client/patient, or an immediate family member of a former client/patient which is not exploitive. In determining whether the conduct is exploitive, the licensed professional counselor shall consider all of the following:

- (1) The amount of time that has passed since the professional relationship terminated.
- (2) The nature and duration of the therapy.
- (3) The circumstances of termination.
- (4) The client/patient's personal history, for example, unique vulnerabilities.
- (5) The client/patient's current mental status.
- (6) Statements or actions made by the licensed professional counselor during the course of therapy suggesting or inviting the possibility of a posttermination sexual or romantic relationship with the client/patient.
- (7) The likelihood of adverse impact on the client/patient and immediate family members of the client/patient.

Source

The provisions of this § 49.23 adopted August 11, 2006, effective August 12, 2006, 36 Pa.B. 4469.

Cross References

This section cited in 49 Pa. Code § 49.24 (relating to disciplinary proceedings); and 49 Pa. Code § 49.25 (relating to impaired professional program).

§ 49.24. Disciplinary proceedings.

(a) A violation of §§ 49.21—49.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient or an immediate family member of a former client/patient) will be deemed unprofessional conduct and will subject the licensed professional counselor to discipline under section 1911(a)(2) of the act (63 P. S. §§ 1911(a)(2)).

(b) The consent of a former client/patient or immediate family member of a former client/patient to engage in sexual intimacies with the licensed professional counselor is not a defense in any disciplinary action brought under §§ 49.21—49.23.

(c) With the exception of information contained in a professional record, neither opinion evidence, reputation evidence nor specific instances of the past sexual conduct of a former client/patient or immediate family member of a former client/patient may be admissible in a disciplinary action brought under §§ 49.21—49.23.

(d) In a disciplinary proceeding brought under § 49.23(b), the Board will consider whether there has been exploitation of the client/patient in light of all of the relevant factors enumerated under § 49.23(b)(1)—(7).

Source

The provisions of this § 49.21 adopted August 11, 2006, effective August 12, 2006, 36 Pa.B. 4469.

§ 49.25. Impaired professional program.

When the Board takes disciplinary or corrective action against a licensed professional counselor under section 11(a) of the act (63 P. S. § 1911(a)), for conduct prohibited by §§ 49.21—49.23 (relating to prohibited conduct; former sexual partners as clients/patients; and sexual intimacies with a former client/patient, or an immediate family member of a former client/patient), the licensed professional counselor will not be eligible for placement into an impaired professional program in lieu of disciplinary or corrective action.

Source

The provisions of this § 49.21 adopted August 11, 2006, effective August 12, 2006, 36 Pa.B. 4469.

CONTINUING EDUCATION

§ 49.31. Definitions.

The following words and terms, when used in §§ 49.32—49.42, have the following meanings, unless the context clearly indicates otherwise:

Biennium—The period from March 1 of an odd-numbered year to February 28 of the next odd-numbered year.

Certification—A statement signed by the licensee certifying that continuing education requirements have been met along with information and documentation relative to the course.

Clock hour—50 to 60 minutes of instruction or participation in an approved course or program.

Provider—An agency, organization, institution, association, center or individual approved by the Board to offer an organized course or program.

Source

The provisions of this § 49.31 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

§ 49.32. Requirement for biennial renewal.

The Board requires, as a condition of biennial renewal of a professional counselor's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs offered by approved providers. Up to 20 clock hours may be obtained by home study. Excess clock hours may not be carried over to the next biennium. At least 3 of the required 30 clock hours must be related to ethical issues and at least 2 of the required 30 clock hours must be completed in child abuse recognition and reporting in accordance with § 49.58(b) (relating to child abuse recognition and reporting—mandatory training requirement).

Authority

The provisions of this § 49.32 amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.32 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial page (325259).

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions).

§ 49.33. Acceptable continuing education courses and programs.

(a) Only courses or programs offered by Board approved providers will be accepted for continuing education credit except as provided in § 49.37 (relating to other sources of continuing education).

(b) Continuing education courses and programs must be appropriate for the master's level practitioner and pertain to the practice of professional counseling as defined in section 3 of the act (63 P. S. § 1903).

(c) The Board will not approve courses or programs in office management or in practice building.

(d) A licensee may accrue up to 20 of the required clock hours in home study courses offered by approved providers if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. Home study courses must be indicated as such on the certificates of attendance.

Source

The provisions of this § 49.33 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions).

§ 49.34. Registration of continuing education providers who offer one course or program.

(a) An agency, organization, institution, association, center or individual seeking to offer one organized course or program may apply to the Board as a provider by filing an application, along with a fee of \$45, at least 90 days before the date the course or program commences.

(b) The application must include the following information:

- (1) The full name and address of the applicant.
- (2) The title of the course or program and core subjects covered.
- (3) The dates and location of the course or program.
- (4) The instructors' names, titles, affiliations and degrees.
- (5) The schedule of the course or program-syllabus, lecturer, time allocated and the like.
- (6) The total number of clock hours requested.
- (7) The method of certifying attendance.
- (8) The objectives.
- (9) The course or program coordinator.
- (10) The instruction and evaluation methods.
- (11) Evidence of meeting the standards in § 49.35 (relating to standards for courses and programs).

(c) Statements made in the application must be sworn to be true and correct to the best of the applicant's information, knowledge and belief.

(d) Upon approval as a qualified provider of a course or program, a Board approval number will be assigned and will be listed on the certificate of attendance. Approval is limited to the biennial period in which the course is given.

(e) The Board reserves the right to reject a submitted course or program which is outside the scope of practice of professional counseling or is otherwise unacceptable because of presentation, content or failure to meet the criteria in § 49.35.

(f) Disapproval of a course or program will include a statement setting forth reasons. Applicants may submit a revised application within 10 days after receipt of disapproval. Revised applications must document alterations made to meet Board requirements. Notification on revised applications will occur as soon as possible within the Board's capability.

(g) The Board may withdraw approval of a course or program for cause. The provider will be notified in writing of the reasons for withdrawal of approval. Withdrawal of approval will be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

Source

The provisions of this § 49.34 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions); 49 Pa. Code § 49.36 (relating to preapproved providers of continuing education courses and programs for professional counselors); and 49 Pa. Code § 49.37 (relating to other sources of continuing education).

§ 49.35. Standards for courses and programs.

(a) A provider or licensee seeking Board approval of a course or program shall present evidence that the course or program is geared toward the master's level practitioner and has the following:

(1) Subject matter pertaining to the enhancement of the professional counselor's knowledge and practice skills related to helping people achieve adequate and productive personal, interpersonal and social adjustments in their individual lives, in their families and in their community.

(2) An established mechanism measuring the quality of the course or program being offered.

(3) Established criteria for selecting and evaluating faculty or source material.

(4) Established criteria for the evaluation of each course or program upon completion.

(5) A minimum total duration of at least 2 clock hours; however, the hours need not be contiguous.

(b) Providers shall comply with relevant Federal, State and local laws related to serving people with disabilities and provide adequate facilities and appropriate instructional materials to carry out the continuing education course or program.

(c) Providers shall insure that instructors have suitable qualifications and are of good reputation and character.

Source

The provisions of this § 49.35 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions); 49 Pa. Code § 49.34 (relating to registration of continuing education providers who offer one course or program); and 49 Pa. Code § 49.36 (relating to preapproved providers of continuing education courses and programs for professional counselors).

§ 49.36. Preapproved providers of continuing education courses and programs for professional counselors.

(a) In addition to providers approved under § 49.34 (relating to registration of continuing education providers who offer one course or program), the Board finds the following entities have currently met the standards in § 49.35 (relating to standards for courses and programs). Accordingly, the following are approved providers:

(1) Graduate and undergraduate programs accredited by the Council on Social Work Education.

(2) The Association of Social Work Boards.

(3) Accredited colleges and universities (graduate level courses and continuing education programs).

- (4) Graduate and postgraduate training programs accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE).
- (5) Graduate programs accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP).
- (6) The following groups and the providers, courses or workshops approved by them:
 - (i) The National Association of Social Workers (NASW) and its state and local affiliates.
 - (ii) The Clinical Social Work Association (CSWA) and its state and local affiliates.
 - (iii) The National Board for Certified Counselors, Inc. (NBCC).
 - (iv) The Commission on Rehabilitation Counselor Certification (CRCC).
 - (v) The Certification Board for Music Therapists (CBMT).
 - (vi) The American Art Therapy Association (AATA).
 - (vii) The American Dance Therapy Association (ADTA).
 - (viii) The National Association for Drama Therapy (NADT).
 - (ix) The American Psychological Association (APA).
 - (x) The Approved Continuing Education (ACE) Program developed by the Association of Social Work Boards.
 - (xi) The American Nurses Credentialing Center (ANCC).
- (7) The following groups and their regional, state, and local affiliates:
 - (i) The Child Welfare League of America.
 - (ii) The National Association of Black Social Workers.
 - (iii) The Family Service Association of America.
 - (iv) The Clinical Social Work Association (CSWA).
 - (v) The American Association for Marriage and Family Therapy (AAMFT).
 - (vi) The American Family Therapy Association (AFTA).
 - (vii) The National Council on Family Relations (NCFR).
 - (viii) The Council of Nephrology Social Workers.
 - (ix) The American Association of Sex Educators, Counselors and Therapists (AASECT).
 - (x) The American Association of Pastoral Counselors (AAPC).
 - (xi) The American School Counselor Association (ASCA).
 - (xii) The American Counseling Association (ACA).
 - (xiii) The American Mental Health Counselors Association (AMHCA).
 - (xiv) The National Rehabilitation Counseling Association (NRCA).
- (b) The Board will consider for approval, as preapproved providers, other organizations who offer multiple courses and programs for professional counselors. The request for approval shall be submitted to the Board in writing along with a rationale as to why the organization should be included as a preapproved provider.

(c) The approval given to providers is subject to reevaluation; however, a rescission of approval will be made only in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(d) The Board may approve participation in other continuing education courses or programs for credit so long as the licensee submits, prior to attendance, an application for program approval and supporting documentation provided in § 49.35, and upon completion of the course or program submits verification of attendance.

Source

The provisions of this § 49.36 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions); and 49 Pa. Code § 49.38 (relating to reporting of licensee of hours spent on continuing education; continuing education audit and enforcement).

§ 49.37. Other sources of continuing education.

(a) Clock hours may be granted on a case-by-case basis for the following:

(1) Participation in clinical conferences, clinical rounds or training under a preceptor provided through hospitals, medical centers, schools and universities.

(2) First-time experience as a teacher.

(3) Publications of articles, books and research relating to the practice of professional counseling.

(4) Services as a preceptor, lecturer or speaker.

(b) A licensee who wishes to obtain clock hours for credit under subsection (a)(1), (2) or (4) shall submit, prior to participating in the event, an application for approval along with a fee of \$45 as provided by § 49.34(a) (relating to registration of continuing education providers who offer one course or program). A licensee seeking to obtain clock hours for a publication under subsection (a)(3), shall submit, after the publication of the article, book or research, an application for approval along with a fee of \$45 as provided by § 49.34(a).

Source

The provisions of this § 49.37 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions); and 49 Pa. Code § 49.33 (relating to acceptable continuing education courses and programs).

§ 49.38. Reporting by licensee of hours spent in continuing education; continuing education audit and enforcement.

(a) Applicants for license renewal shall provide a signed statement certifying that the continuing education requirements have been met. The certification statement will be included on the application form for renewal of licensure.

(b) The Board will randomly audit licensees to ensure compliance with the continuing education requirements. A licensee selected for audit shall provide information to document the licensee's completion of required continuing education. The information must include the following:

(1) The date attended.

(2) The clock hours claimed.

- (3) The title of course or program and description of content.
- (4) The school, hospital, medical center or organization which sponsored the course or program.
- (5) The instructor.
- (6) The location of course or program.
- (7) The Board approval number assigned to the course or program unless the provider is preapproved under § 49.36(a) (relating to preapproved providers of continuing education courses and programs for professional counselors).
- (c) A licensee who, as a result of an audit, is determined to be deficient in continuing education hours is subject to formal disciplinary action under section 11(a)—(c) of the act (63 P. S. § 1911(a)—(c)) or the issuance of a citation under section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (63 P. S. § 2205(a)) as provided in § 43b.24 (relating to schedule of civil penalties—social workers, marriage and family therapists and professional counselors).
- (d) Notwithstanding other action taken as set forth in subsection (c), a licensee who is determined to be deficient in continuing education hours is required to make up deficient hours of continuing education and submit documentation containing the information in subsection (b) to the Board within 6 months from the issuance of a warning letter, the issuance of a citation or the imposition of discipline. Hours of continuing education submitted to the Board to make up for a deficiency may not be used by the licensee to satisfy the continuing education requirement for the current biennium.
- (e) Failure to make up the deficiencies in subsection (d) will subject the licensee to further disciplinary action under section 11(a)—(c) of the act.

Authority

The provisions of this § 49.38 amended under section 18(a) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. § 1918(a)).

Source

The provisions of this § 49.38 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841; amended December 13, 2013, effective December 14, 2013, 43 Pa.B. 7282. Immediately preceding text appears at serial pages (325263) to (325264).

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions).

§ 49.39. Retention of records.

The licensee shall retain documentation of completion of the prescribed number of clock hours for 4 years following the certification which shall be produced upon request by the Board or its auditing agents. The Board will utilize a random audit of renewals to determine compliance with the continuing education requirement.

Source

The provisions of this § 49.39 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions).

§ 49.40. Exemption and waiver.

(a) An individual applying for licensure in this Commonwealth for the first time shall be exempted from the continuing education requirement for the biennial renewal period following initial licensure.

(b) The Board may grant an extension or waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee. The request must be made in writing, with appropriate documentation, and shall include a description of circumstances sufficient to show why compliance is impossible. A waiver or extension request will be evaluated by the Board on a case-by-case basis. Waivers and extensions may be granted for serious illness, military service or other demonstrated hardship. The Board will send written notification of its approval or denial of a waiver or extension request.

Source

The provisions of this § 49.40 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions).

§ 49.41. Continuing education requirement for biennial renewal of inactive and lapsed licenses.

A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

Source

The provisions of this § 49.41 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions).

§ 49.42. Disciplinary action authorized.

(a) A licensed professional counselor who submits fraudulent clock hour reports will be subject to disciplinary action under section 11(a)(5) of the act (63 P. S. § 1911(a)(5)).

(b) The falsification of a clock hour report by a program provider will result in revocation of approval by the Board for further program offerings of that provider.

Source

The provisions of this § 49.42 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

Cross References

This section cited in 49 Pa. Code § 49.31 (relating to definitions).

CHILD ABUSE REPORTING REQUIREMENTS**§ 49.51. Definitions relating to child abuse reporting requirements.**

The following words and terms, when used in this section and §§ 49.52—49.59 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

Bodily injury—Impairment of physical condition or substantial pain.

Bureau—Bureau of Professional and Occupational Affairs within the Department of State of the Commonwealth.

Child—An individual under 18 years of age.

Child abuse—Intentionally, knowingly or recklessly doing any of the following:

(i) Causing bodily injury to a child through any recent act or failure to act.

(ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.

(iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.

(iv) Causing sexual abuse or exploitation of a child through any act or failure to act.

(v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(vii) Causing serious physical neglect of a child.

(viii) Engaging in any of the following recent acts:

(A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

(B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.

(C) Forcefully shaking a child under 1 year of age.

(D) Forcefully slapping or otherwise striking a child under 1 year of age.

(E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

ChildLine—An organizational unit of the Department of Human Services, which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Mandated reporter—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes all licensed professional counselors.

Parent—A biological parent, adoptive parent or legal guardian.

Perpetrator—An individual who has committed child abuse as defined in this section. The following apply:

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) An individual 14 years of age or older who is a person responsible for the child's welfare or who has direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.

(F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person responsible for the child's welfare who is 18 years of age or older.

(E) An individual 18 years of age or older who resides in the same home as the child.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

Program, activity or service—Any of the following in which children participate and which is sponsored by a school or by a public or private organization:

- (i) A youth camp or program.
- (ii) A recreational camp or program.
- (iii) A sports or athletic program.
- (iv) A community or social outreach program.
- (v) An enrichment or educational program.
- (vi) A troop, club or similar organization.

Recent act or failure to act—An act or failure to act committed within 2 years of the date of the report to the Department of Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

- (i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.
- (ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical neglect—Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- (i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- (ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Sexual abuse or exploitation—Any of the following:

- (i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:

(A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

Authority

The provisions of this § 49.51 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and the Child Protective Services Act, 23 Pa.C.S. Chapter 63; amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.51 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial pages (325265) to (325266) and (352877).

Cross References

This section cited in 49 Pa. Code § 49.79 (relating to mandatory reporting).

§ 49.52. Suspected child abuse—mandated reporting requirements.**(a) General rule.**

(1) Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed professional counselors are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this subsection shall require a child to come before the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this subsection shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(b) Staff members of public or private agencies, institutions and facilities.

Whenever a licensed professional counselor is required to make a report under subsection (a) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that licensed professional counselor shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) Reporting procedure.

(1) A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(i) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this subparagraph may be submitted electronically.

(ii) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at www.compass.state.pa.us/cwis. A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse sub-

mitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(2) A written or electronic report of suspected child abuse must include the following information, if known:

- (i) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.
- (ii) Where the suspected child abuse occurred.
- (iii) The age and sex of each subject of the report.
- (iv) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.
- (v) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.
- (vi) Family composition.
- (vii) The source of the report.
- (viii) The name, telephone number and e-mail address of the person making the report.
- (ix) The actions taken by the person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.
- (x) Other information required by Federal law or regulation.
- (xi) Other information that the Department of Human Services may require by regulation.

Authority

The provisions of this § 49.52 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and the Child Protective Services Act, 23 Pa.C.S. Chapter 63; amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.52 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial pages (352877) to (352878).

Cross References

This section cited in 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements); 49 Pa. Code § 49.53 (relating to photographs of child subject to report); 49 Pa. Code § 49.55 (relating to immunity from liability); 49 Pa. Code § 49.56 (relating to confidentiality—waived); 49 Pa. Code § 49.57 (relating to noncompliance); and 49 Pa. Code § 49.79 (relating to mandatory reporting).

§ 49.53. Photographs of child subject to report.

A licensed professional counselor may take or cause to be taken photographs of the child who is subject to a report. Summaries or reports of the photographs taken shall be sent to the county children and youth social service agency at the time the written report is sent, or within 48 hours after an electronic report is made under § 49.52(c)(1)(ii) (relating to suspected child abuse—mandated reporting requirements), or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and may obtain them or duplicates of them upon request. Summaries or

reports of the photographs shall be made available to law enforcement officials in the course of investigating cases under 23 Pa.C.S. § 6490(a)(9) or (10) (relating to release of information in confidential reports).

Authority

The provisions of this § 49.53 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and the Child Protective Services Act, 23 Pa.C.S. Chapter 63; amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.53 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial page (352878).

Cross References

This section cited in 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements); 49 Pa. Code § 49.55 (relating to immunity from liability); 49 Pa. Code § 49.56 (relating to confidentiality—waived); 49 Pa. Code § 49.57 (relating to noncompliance); and 49 Pa. Code § 49.79 (relating to mandatory reporting).

§ 49.54. Suspected death as a result of child abuse—mandated reporting requirement.

A licensed professional counselor who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner or medical examiner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner or medical examiner of the county where the injuries were sustained.

Authority

The provisions of this § 49.54 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and the Child Protective Services Act, 23 Pa.C.S. Chapter 63; amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.54 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial page (352879).

Cross References

This section cited in 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements); 49 Pa. Code § 49.55 (relating to immunity from liability); 49 Pa. Code § 49.56 (relating to confidentiality—waived); 49 Pa. Code § 49.57 (relating to noncompliance); and 49 Pa. Code § 49.79 (relating to mandatory reporting).

§ 49.55. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a licensed professional counselor who participates in good faith in the making of a report of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out

of an instance of suspected child abuse or general protective services or engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317, shall have immunity from civil and criminal liability that might otherwise result by reason of the licensed professional counselor's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensed professional counselor shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensed professional counselor's actions under §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).

Authority

The provisions of this § 49.55 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and the Child Protective Services Act, 23 Pa.C.S. Chapter 63; amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.55 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial pages (352879) to (352880).

Cross References

This section cited in 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements); and 49 Pa. Code § 49.79 (relating to mandatory reporting).

§ 49.56. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply. In accordance with 23 Pa.C.S. § 6311.1 (relating to privileged communications), privileged communications between a mandated reporter and a patient/client does not apply to a situation involving child abuse and does not relieve the mandated reporter of the duty to make a report of suspected child abuse. Additionally, under 23 Pa.C.S. § 6313(e) (relating to reporting procedure), notwithstanding any other provision of law to the contrary, a mandated reporter who makes a report of suspected child abuse does not violate the Mental Health Procedures Act (50 P.S. §§ 7101—7503) by releasing information necessary to complete the report.

Authority

The provisions of this § 49.56 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and the Child Protective Services Act, 23 Pa.C.S. Chapter 63; amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.56 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial page (352880).

Cross References

This section cited in 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements); and 49 Pa. Code § 49.79 (relating to mandatory reporting).

§ 49.57. Noncompliance.

(a) *Disciplinary action.* A licensed professional counselor who willfully fails to comply with the reporting requirements in §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P.S. § 1911).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties), a licensed professional counselor who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits a criminal offense, as follows:

(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.

(2) An offense is a felony of the third degree if all of the following apply:

(i) The mandated reporter willfully fails to report.

(ii) The child abuse constitutes a felony of the first degree or higher.

(iii) The mandated reporter has direct knowledge of the nature of the abuse.

(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.

(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.

Authority

The provisions of this § 49.57 issued under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and the Child Protective Services Act, 23 Pa.C.S. Chapter 63; amended under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.57 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022; amended March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608. Immediately preceding text appears at serial page (352880).

Cross References

This section cited in 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements); and 49 Pa. Code § 49.79 (relating to mandatory reporting).

§ 49.58. Child abuse recognition and reporting—mandatory training requirement.

(a) Except as provided in subsection (c), individuals applying to the Board for a license as a professional counselor shall complete, as a condition of licensure, at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services and the Bureau, as set forth in § 49.59 (relating to child abuse recognition and reporting course approval process). The applicant shall certify on the application that the applicant has either completed the required training or has been granted an exemption under subsection (c). The Board will not issue a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the applicant or the applicant has obtained an exemption under subsection (c).

(b) Except as provided in subsection (c), licensed professional counselors seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting as a portion of the total continuing education required for biennial renewal. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 49.59 (relating to child abuse recognition and reporting course approval process). The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course within the applicable biennial renewal period or the licensee has obtained an exemption under subsection (c). If a licensee holds more than one license issued by the Board, or holds a license issued by another licensing Board within the Bureau that requires mandatory training in child abuse recognition and reporting, credit for completion of an approved course will be applied to both licenses.

(c) An applicant or licensee may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant or licensee meets one of the following:

- (1) The applicant or licensee submits documentation demonstrating that:
 - (i) The applicant or licensee has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

- (ii) The training was approved by the Department of Education in consultation with the Department of Human Services.
 - (iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.
 - (iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.
- (2) The applicant or licensee submits documentation demonstrating that:
- (i) The applicant or licensee has already completed child abuse recognition training required by 23 Pa.C.S. § 6383(c) (relating to education and training).
 - (ii) The training was approved by the Department of Human Services.
 - (iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.
 - (iv) For purposes of licensure renewal, the training must have been completed during the relevant biennial renewal period.
- (3) The applicant or licensee submits documentation acceptable to the Board demonstrating why the applicant or licensee should not be subject to the training or continuing education requirement. The Board will not grant an exemption based solely upon proof that children are not part of the applicant's or licensee's practice. Each request for an exemption under this paragraph will be considered on a case-by-case basis. The Board may grant the exemption if it finds that completion of the training or continuing education requirement is duplicative or unnecessary under the circumstances.
- (d) Exemptions granted under subsection (c) are applicable only for the biennial renewal period for which the exemption is requested. If an exemption is granted, the Board will issue or renew the license, as applicable. If an exemption is denied, the Board will e-mail the applicant or licensee a discrepancy notice notifying them of the need to either complete an approved course or, if warranted, to submit additional documentation in support of their request for an exemption.

Authority

The provisions of this § 49.58 added under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 48.59 added March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608.

Cross References

This section cited in 49 Pa. Code § 49.12 (relating to general qualifications for licensure); 49 Pa. Code § 49.32 (relating to requirement for biennial renewal); and 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements).

49-28.6

§ 49.59. Child abuse recognition and reporting course approval process.

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services, Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 or electronically at RA-stcpsl_course_app@pa.gov.

(b) Submissions must include the following:

(1) Contact information (mailing address, e-mail address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) The course related materials, including as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which must include:

(i) Name of participant.

(ii) Title of training.

(iii) Date of training.

(iv) Length of training (2 or 3 hours).

(v) Name and signature of the authorized representative of the provider. The signature may be an electronic signature.

(vi) Statement affirming the participant attended the entire course.

(13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.

(c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

Authority

The provisions of this § 49.59 added under section 6(2) of the Social Workers, Marriage Family Therapists and Professional Counselors Act (63 P.S. § 1906(2)); and 23 Pa.C.S. §§ 6301—6388.

Source

The provisions of this § 49.59 added March 18, 2022, effective March 19, 2022, 52 Pa.B. 1608.

Cross References

This section cited in 49 Pa. Code § 49.51 (relating to definitions relating to child abuse reporting requirements); and 49 Pa. Code § 49.58 (relating to child abuse recognition and reporting—mandatory training requirement).

**CODE OF ETHICAL PRACTICE AND STANDARDS OF
PROFESSIONAL CONDUCT**

§ 49.71. Code of ethical practice and professional conduct.

(a) The Board subscribes to the code of ethics and practice standards for licensees promulgated by the American Counseling Association (ACA). Licensed professional counselors (licensees) shall adhere to the ACA Code of Ethics, except when the ACA Code of Ethics conflict with this chapter. The Board will use the ACA Code of Ethics in resolving ambiguities that may arise in the interpretation of this chapter, except that whenever any conflict exists between this chapter and the ACA Code of Ethics, this chapter shall prevail.

(b) The Board acknowledges the codes of ethics and practice standards of the National Board for Certified Counselors, Inc., the Commission on Rehabilitation Counselor Certification, the Certification Board for Music Therapists, the Art Therapists Certification Board, the American Dance Therapy Association, the National Association for Drama Therapy, The Academy of Certified Clinical Mental Health Counselors, The North American Association of Master's in Psychology, the American School Counseling Association and The International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc., and the Board may elect to consider or refer to these codes and standards as advisory aids in resolving ambiguities which may arise in the interpretation of this chapter.

Source

The provisions of this § 49.71 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

Cross References

This section cited in 49 Pa. Code § 49.76 (relating to research and publication).

§ 49.72. Responsibilities to clients/patients.

(a) *Competency.*

(1) In all communications with, or regarding, specific existing or prospective clients/patients, licensees may not misrepresent directly, indirectly or by implication their professional qualifications such as education, specialized training, experience or areas of competence.

(2) Licensees may practice only within the competency areas for which they are qualified by education, training and experience. Licensees may utilize only those testing and assessment instruments relevant to the needs of the client/patient and for which the licensees have been trained.

(3) Licensees shall maintain appropriate standards of care. The appropriate standard of care is defined as what an ordinary, reasonable licensee would have done in a similar circumstance. In areas in which recognized standards do not yet exist, licensees shall take whatever precautions are necessary to protect the welfare of their clients/patients.

(4) Licensees shall maintain knowledge of current scientific and professional information related to the services they render.

(5) Licensees shall refer a client/patient to another professional and take steps to facilitate an orderly transfer of responsibility when the client's/patient's needs exceed the licensee's competence level. Licensees shall notify the client/patient promptly of the need to refer and seek the referral and transfer of services in relation to the clients'/patients' needs and preferences.

(b) *Informed consent.*

(1) Licensees shall inform clients/patients in writing of:

- (i) The purpose of the services being provided.
- (ii) Risks and limits related to the services that are known to the licensee.
- (iii) Reasonable alternatives to the services being provided.
- (iv) Relevant costs, billing and overdue collection policies and their potential effect on the continuation of the professional relationship.
- (v) The clients'/patients' right to refuse or withdraw consent, and the time frame covered by the consent.
- (vi) Other information the licensees reasonably might expect to affect the clients'/patients' decisions to enter into or continue the professional relationship.

(2) Licensees shall use clear and understandable language when providing the information in paragraph (1) to clients/patients.

(3) Licensees shall provide services to clients/patients only in the context of a professional relationship based on valid informed consent.

(4) In instances when the client/patient is unable to read or understand the informed consent document or has trouble understanding the primary language contained in the informed consent document, licensees shall take steps to ensure the client's/patient's comprehension including providing a detailed verbal explanation or arranging for a qualified interpreter or translator, as needed. If a client/patient is not competent to provide informed consent because of age or mental condition, the licensee shall obtain consent from the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney.

(5) When a client/patient is receiving legally-mandated services, licensees shall provide information about the nature and extent of the services and about the client's/patient's rights to the client/patient, or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, as applicable.

(6) Licensees who provide services by means of electronic means shall inform the client/patient of the reasonably foreseeable limitations and risks associated with those services.

(c) *Delegation.* A licensee may not delegate professional responsibilities to another person when the licensee delegating the responsibilities knows or has reason to know that the other person is not qualified by training, experience or licensure to perform those responsibilities.

(d) *Confidentiality and privacy.*

(1) Licensees shall have a primary obligation to protect the client's/patient's right to confidentiality and privacy as established by law and professional standards of practice. Confidential and private information shall only be revealed to others when the client/patient, or the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, has given informed consent, except in those circumstances in which failure to do so would violate a court order or specific Federal or State privacy statutes or regulations, or result in clear and present danger to the client/patient or others. Unless specifically contraindicated by such situations, a client/patient shall be informed and written consent shall be obtained before the confidential and private information is revealed.

(2) Licensees shall discuss with clients/patients and the client's/patient's parent, guardian, court-appointed representative or the holder of the client's/patient's power of attorney, the nature of confidentiality and the limitation of the clients'/patients' right to confidentiality. Licensees shall review with clients/patients circumstances when confidential information may be requested and when disclosure of confidential information is legally required. This discussion shall occur as soon as possible in the professional relationship and as needed throughout the course of the relationship.

(3) When licensees provide services to families, couples or groups, licensees 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 will honor the agreements. In the context of couple, family or group treatment, the licensee may not reveal any individual's confidences to others in the client unit without the prior written permission of that individual.

(4) Licensees shall take reasonable steps to protect the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones and telephone answering machines, and other electronic or computer technology.

(e) *Termination of services.*

(1) Licensees may terminate services only after giving careful consideration to factors affecting the professional relationship and making an effort to minimize possible adverse effects. If an interruption or termination of services is anticipated, notification and referral for continued services shall be provided to the client/patient.

(2) Licensees may terminate services to a client/patient who has not paid an overdue fee balance if the following conditions are met:

- (i) The financial contractual arrangements have been made clear to the client/patient.
- (ii) The client/patient does not pose an imminent danger to self or others.

- (iii) The clinical and other consequences of the current nonpayment have been addressed and discussed with the client/patient.
- (f) *Discrimination.* Licensees shall comply with existing Federal and State antidiscrimination laws and may not practice, condone, facilitate or collaborate with any form of discrimination prohibited by those laws.
- (g) *Conduct with clients/patients.*
 - (1) Licensees may not physically or verbally abuse or threaten clients/patients or family members of clients/patients.
 - (2) Licensees may not use derogatory language in their written or verbal communications to or about clients/patients. Licensees shall use accurate and respectful language in communications to and about clients/patients.

Source

The provisions of this § 49.72 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.73. Dual or multiple relationships affecting the licensee's judgment.

- (a) *Dual or multiple relationships defined.* Dual or multiple relationships occur when the licensee engages in multiple or ongoing interactions with clients/patients, their romantic partners or immediate family members of clients/patients in more than one context, whether professional, social or business. Dual or multiple relationships can occur simultaneously or consecutively.
- (b) *Dual or multiple relationships prohibited.*
 - (1) A licensee shall avoid dual or multiple relationships and conflicts of interest with any client/patient which could impair the licensee's professional judgment or increases the risk of client/patient exploitation.
 - (2) A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student when the objectivity or competency of the licensee is, or could reasonably be expected to be, impaired or when the relationship with the client/patient, supervisee or student is exploitative.
 - (3) A licensee shall carefully consider familial, social, emotional, financial, supervisory, political, administrative and legal relationships with a client/patient or a person related to or associated with the client/patient to assure that impaired judgment or exploitation does not occur within the professional relationship.
 - (4) Licensees shall always carefully consider the potentially harmful effects of dual or multiple relationships on their practice and on their clients/patients. A licensee shall refrain from entering into, or promising another to enter into, professional, social or business relationships with another person if it appears reasonably likely that the relationship might impair the licensee's objectivity or otherwise interfere with the licensee's effectiveness or might harm or exploit the client/patient.
 - (5) When a dual or multiple relationship cannot be avoided, a licensee shall take reasonable professional precautions, such as informed consent, consultation, supervision and documentation, to ensure that judgment is not impaired and that no exploitation occurs.

(6) If a licensee finds that, due to unforeseen factors, a potentially harmful dual or multiple relationship has arisen with a client/patient, the licensee shall attempt to resolve it with due regard for the best interests of the client/patient and maximum compliance with the act and this chapter.

(c) *Conflicts of interest.* When a licensee provides services to two or more people who have a relationship with each other, such as couples or family members, the licensee shall clarify with all parties which individuals will be considered clients/patients and the nature of the licensee's professional obligation to the various individuals who are receiving services. A licensee who anticipates or should reasonably anticipate a conflict of interest among the individuals receiving services or who anticipates or should reasonably anticipate having to perform in potentially conflicting roles, such as a licensee who is asked or ordered to testify in a child custody dispute or divorce proceeding involving clients/patients, shall clarify the roles with the parties involved and take reasonable action to minimize any conflict of interest.

Source

The provisions of this § 49.73 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.74. Sexual harassment.

(a) Licensees may not sexually harass supervisees, students, trainees, employees, research subjects or colleagues.

(b) Sexual harassment includes unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when any one of the following occurs:

(1) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic association with a licensee.

(2) Submission to or rejection of the conduct by an individual is used as the basis for employment-related decisions affecting the individual or academic decisions affecting the individual.

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or academic environment.

Source

The provisions of this § 49.74 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.75. Impaired practice.

A licensee may not undertake or continue a professional relationship with a client/patient, supervisee or student when the objectivity or competency of the licensee is, or could reasonably be expected to be, impaired due to mental, emotional, physiological, pharmacological or substance abuse conditions. If a condition develops after a professional relationship has been initiated, the licensee shall terminate the professional relationship in an appropriate manner and shall, either

himself or through an appropriate designee, notify the client/patient of termination in writing and assist the client/patient in obtaining services from another professional.

Source

The provisions of this § 49.75 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.76. Research and publication.

(a) *Protection of human subjects.*

(1) A licensee shall plan, design, conduct and report research in a manner consistent with this chapter, the codes of ethics in § 49.71 (relating to code of ethical practice and professional conduct), applicable Federal and State laws, host institutional rules and scientific standards governing research with human subjects.

(2) A licensee shall obtain informed consent from participants by using language that the licensee believes would be understandable to the research participants and that:

- (i) Accurately explains the purpose and procedures to be followed.
- (ii) Identifies procedures that are experimental or relatively untried.
- (iii) Describes the attendant discomforts and risks that are most likely to occur and which are known to the licensee.
- (iv) Describes the benefits or changes in individuals or organizations that might be reasonably expected.
- (v) Discloses appropriate alternative procedures that may be advantageous for the subject.
- (vi) Offers to answer any inquiries concerning the procedures.
- (vii) Instructs that subjects are free to withdraw their consent and discontinue participation in the research project at any time.

(3) When a participant is not capable of giving informed consent, licensees shall provide an appropriate explanation, obtain agreement for participation and obtain informed consent from a participant's parent, guardian, court-appointed representative or the holder of the participant's power of attorney.

(4) Information obtained about research participants during the course of the research is confidential. The licensee shall explain to the participant whether the possibility exists that others may obtain access to the information, and also explain the plans for protecting the participant's confidentiality as part of the procedure for obtaining informed consent.

(b) *Reporting and publication of results.*

(1) Licensees may not engage in fraudulent research, distort data, misrepresent data or deliberately bias their results.

(2) Licensees shall plan, conduct, report and publish accurately and in a manner that minimizes the possibility that results will be misleading.

(c) *Other ethical obligations.* In addition to the provisions of this section, a licensee's ethical obligations with regard to research and publication are gov-

erned by this chapter and those codes of ethics and standards of practice to which the Board subscribes in § 49.71.

Source

The provisions of this § 49.76 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.77. Payment for services.

(a) When setting fees, licensees shall ensure that the fees are fair, reasonable and commensurate with the services performed.

(b) Licensees may not accept goods or services as payment for professional services.

(c) Licensees shall make financial arrangements with clients/patients, third-party payors and supervisees that are reasonably understandable and conform to accepted professional practices.

(d) Prior to entering into the therapeutic or supervisory relationship, a licensee shall clearly disclose and explain to clients/patients and supervisees the following:

(1) Financial arrangements and fees related to professional services, including charges for canceled or missed appointments.

(2) The use of collection agencies or legal measures for nonpayment.

(3) The procedure for obtaining payment from the client/patient, to the extent allowed by law, if payment is denied by the third-party payor.

(e) Once services have begun, licensees shall provide reasonable notice of any changes in fees or other charges.

(f) Licensees shall give reasonable notice to clients with unpaid balances of their intent to seek collection by agency or legal recourse. When this action is taken, licensees may not disclose clinical information.

(g) Licensees shall represent facts truthfully to clients, third-party payors and supervisees regarding services rendered.

(h) Licensees may not withhold records under their immediate control that are requested and needed for a client's/patient's treatment solely because payment has not been received for past services.

Source

The provisions of this § 49.77 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.78. Recordkeeping.

(a) For each client/patient, a licensee shall keep records of the dates of professional counseling services, types of professional counseling services, details of the services provided, termination of the professional relationship, and billing information.

(b) Records kept by the licensee shall be retained for at least 5 years from the date of the last entry. Records held or owned by government agencies or educational institutions are not subject to this requirement.

(c) Licensees shall take reasonable steps to ensure that documentation in records is accurate, legible and reflects the services provided.

(d) Licensees shall include sufficient and timely documentation in records to facilitate the delivery of services and to ensure continuity of services provided to the client/patient in the future.

(e) Licensees' documentation shall protect clients'/patients' privacy to the extent that it is consistent with applicable Federal and State laws and regulations and should include information that is directly relevant to the delivery of services.

(f) Licensees shall store records following termination of services to ensure reasonable future access. Records shall be retained and stored as required by applicable Federal and State law and regulations.

(g) Licensees shall provide a client/patient with reasonable access to records concerning the client/patient. Licensees who are concerned that clients'/patients' access to their records could cause serious harm to the client/patient or another person shall provide assistance in interpreting the records and consultation with the client/patient regarding the records. Licensees may limit clients'/patients' access to their records, or portions of their records, only in exceptional circumstances when there is compelling evidence that the access would cause serious harm to the client/patient or another person. Both the clients'/patients' requests and the rationale for withholding some or all of the records shall be documented in the clients'/patients' files. When providing clients/patients with access to their records, licensees shall take steps to protect the confidentiality of other individuals identified or discussed in the records.

(h) In the event of the licensee moving from the area or closing the licensee's practice, a licensee shall arrange for the storage, transfer or disposal of client/patient records in ways that maintain confidentiality and safeguard the welfare of clients/patients.

Source

The provisions of this § 49.78 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.79. Mandatory reporting.

(a) Licensees, supervisors and trainees have a responsibility to report alleged violations of the act or this chapter to the Board. If a licensee has knowledge or reason to suspect that a colleague or other licensee is incompetent, impaired or unethical, the licensee shall report that practitioner to the Board. Licensees shall make these reports in a manner that does not violate a client's/patient's right to confidentiality.

(b) Licensees shall comply with the mandatory reporting requirements in this chapter, including §§ 49.51—49.57 (relating to child abuse reporting requirements).

(c) A licensee shall notify the Board within 30 days of changes of name or mailing information to ensure that the Board has the licensee's current name and mailing address.

Source

The provisions of this § 49.79 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

§ 49.80. Advertising.

(a) *Definition.* Advertising is defined as the engagement in general informational activities, including those that enable the public, referral sources or others to choose professional services on an informed basis.

(b) *Engagement in advertising.*

(1) Licensees may engage in advertising that accurately represents their competencies, education, training and experience relevant to their professional practice. Licensees may not advertise their services and credentials in a manner that is false, misleading, deceptive or fraudulent.

(2) Licensees shall ensure that advertisements and publications in any media, such as directories, announcements, business cards, newspapers, radio, television, internet and facsimiles, convey information that is necessary for the public to make an appropriate selection of professional services. This information may include the following:

(i) Office information, such as name, address, telephone number and credit card acceptability.

(ii) Earned degrees and state or provincial licensures or certifications.

(iii) Professional association member status.

(iv) Description of practice.

(3) Licensees may not use names that could mislead the public concerning the identity, responsibility, source or status of those practicing under that name, and may not hold themselves out as being partners or associates of a firm if they are not partners or associates of the firm.

(4) Licensees may not use any professional identification, such as a business card, office sign, letterhead, internet, or telephone or association directory listing, if it includes a statement or claim that is false, fraudulent, misleading or deceptive.

(5) In representing their educational qualifications, licensees shall list and claim only those earned degrees from institutions accredited by regional accreditation sources recognized by the United States Department of Education, from institutions recognized by states or provinces that license or certify the licensee, or from equivalent foreign institutions.

(6) The licensee shall correct, whenever possible, false, misleading or inaccurate information and representations made by others concerning the licensee's qualifications, services or products.

(7) Licensees shall make certain that the qualifications of their employees or supervisees are represented in a manner that is not false, misleading or deceptive.

(8) Licensees may not represent themselves as providing specialized services unless they have the required education, training or supervised experience.

Source

The provisions of this § 49.80 adopted September 17, 2010, effective September 18, 2010, 40 Pa.B. 5320.

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