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## Florida Laws and Rules for Mental Health and Social Worker Professionals



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## Introduction

The State of Florida recognizes that emotional health is just as important as physical health. As members of the public seek counseling, clinical services, psychotherapy, or other psychological services to address their mental health needs, the legislature is in place to provide for their health, safety, and welfare. The State of Florida recognizes that those practicing clinical social work, marriage and family therapy, and mental health counseling must be qualified to practice their profession so as not to present a danger to public health, safety, and welfare. Therefore, the legislature was set forth to assist the public in making informed choices for mental health services, to establish minimum qualifications for entering and maintaining one's professional active status, and to encourage professional cooperation amongst mental health professionals. Those practicing or preparing to practice in the State of Florida must be knowledgeable of the laws and rules that regulate their profession.

## Board

The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling is made up of nine members who are appointed by the Governor and confirmed by the Senate. Six board members are practitioners licensed under chapter 491 and are divided equally; two are licensed practicing clinical social workers, two are licensed practicing marriage and family therapists, and two are licensed practicing mental health counselors. The three remaining board members must be citizens of the state of Florida who are not, and have never been, licensed as a mental health professional and who are not connected in any way with the practice of any such profession.

When the board was first established in 1988, the Governor appointed three members to two-year terms, three members to three-year terms, and three members to four-year terms. As the original members' staggered terms expired, the new members were assigned four-year terms after that.

The board will adopt rules in a manner that follows the Florida statutes concerning administrative procedures on rulemaking.

The board will follow all applicable expectations in the Florida statutes concerning health professions and occupations and the expectations set forth for regulatory boards.

The board will appoint an individual as the state delegate to serve on the Compact Counseling Commission that oversees the Professional Counselors Licensure Compact (Clinical, Counseling, and Psychotherapy Services, 2022).

The board's headquarters are located in the city of Tallahassee.

## Licensure Requirements

### Intern Registration

Individuals who have not completed the postgraduate or post-master's level experience requirements to be licensed professionals in their fields of study must register as interns in the profession they are studying to become licensed. This registration must be done before starting their post-master's experience requirement or for those completing a practicum, internship, or field experience as part of their graduate program requirements. Individuals must register as interns in the profession that they are studying and will be seeking licensure before starting the internship, practicum, or field experience.

The department registers clinical social worker interns, marriage and family therapist interns, and mental health counselor interns whom the board certifies have met the following requirements (Clinical, Counseling, and Psychotherapy Services, 2022):

- Completed the application forms found at the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling and submitted them with a non-refundable application fee of \$150. These forms can be found at: <https://floridasmentalhealthprofessions.gov/licensing/>
- Completed the education requirements for the profession that they are applying for licensure.
- Completed an acceptable supervision plan for meeting the practicum, internship, or fieldwork required for licensure that was not satisfied in their graduate program. Part of the supervision plan must identify a qualified supervisor they will be practicing under as interns.

Individuals who are registered as interns must practice under supervision at all times while gaining experience in their profession.

An intern registration is valid for five years. An intern registration expires 60 months after the date it was issued. An intern registration can not be renewed or reissued unless the person has passed the board's theory and practice examination.

If a person has previously had a provisional license issued by the board, that individual may not apply for an internship registration in the same profession (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Nancy is in the second year of her Social Work Master's program. The program requires her to complete 400 hours of field experience. The graduate program provides a list of approved field placement agencies. Nancy is particularly interested in working with youth and interviews with three agencies she believes will best fit her interests. She matches with an after-school program that provides meals, tutoring, mentoring, skills training, and family support to inner-city middle and high school students. The agency is excited to have her as she desires to work with this challenging population. She interviews on Thursday with them, and they hope she will be available to start on Monday. Nancy is excited to finally start her hands-on experience (and to start making a dent in those 400 hours) and enthusiastically agrees to be there on Monday.

### **Questions for Consideration**

What potential issues do you see in the above example? What is Nancy forgetting? What additional steps should Nancy take? How may this impact the after-school agency and the graduate school program?

### **Discussion**

While this seems like an exciting opportunity for Nancy, it does not appear that she was informed before completing any field placement hours she needs to complete an application and be registered as an intern in Florida. Without this, her hours will not apply to her degree requirements. More concerning, everyone is open to liability as she is not yet a recognized intern by the State of Florida. According to the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, it currently takes four to six days for them to complete an intern registration. At this time, if Nancy completes her internship registration application immediately after her interview on Thursday, the earliest she could begin her field placement is Wednesday, should the board process her application in their shortest estimated timeframe.

## Provisional Licensure

A person who is applying for licensure by examination and has completed the clinical experience requirements OR a person applying for licensure by endorsement, who plans to practice clinical social work, marriage and family therapy, or mental health counseling in Florida while still needing to complete the required coursework or examination for licensure must be provisionally licensed in the profession that they are seeking licensure prior to beginning practice.

The department issues provisional clinical social worker licenses, provisional marriage and family therapist licenses, and provisional mental health counselor licenses that the board certifies have met the following requirements (Clinical, Counseling, and Psychotherapy Services, 2022):

- Completed the application forms found at the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling and submitted them with a non-refundable application fee of \$100. These forms can be found at: <https://floridasmentalhealthprofessions.gov/licensing/provisional-license/>
- Completed a social work graduate degree, a graduate degree with a major in marriage and family therapy or a similarly related field of study, or a graduate degree with a major in mental health counseling.
- Completed the following minimum amount of coursework:
  - Clinical Social Work: a minimum of 15 semester hours (22 quarter hours) of the required coursework for Clinical Social Work licensure (theory of human behavior and practice methods and courses in clinically oriented services, including one course in psychopathology; no more than one course in research).
  - Marriage and Family Therapy: 10 of the following courses are required (marriage therapy and counseling theory and techniques; dynamics of marriage and family systems; family therapy and counseling theory and techniques; personality theory or general counseling theory and techniques; psychopathology; individual human development theories throughout the life cycle; psychosocial theory; human sexuality theory and counseling techniques; interpersonal disorder or dysfunction; and substance abuse theory and counseling techniques; diagnosis, appraisal, assessment, and testing for individuals; legal, ethical, and professional



standards issues in marriage and family therapy practice; behavioral research with a focus on the interpretation and application of clinical practice research data; or a course determined by the board to be equivalent. A minimum of 6 semester hours (9 quarter hours) of the course credits must have been completed in marriage and family theories, systems, or techniques.

- **Mental Health Counseling:** a minimum of seven of the following courses are required ( human growth and development; counseling theories and practice; diagnosis and treatment of psychopathology; group theories and practice; human sexuality; individual evaluation and assessment; research and program evaluation; career and lifestyle assessment; social and cultural foundations; counseling in community settings; substance abuse; legal, ethical, and professional standards issues in mental health counseling practice.

OR

- Have completed a minimum of 1,000 hours of university-sponsored supervised clinical practicum, internship, or field experience that meets the accrediting standards for mental health counseling programs as required by the Council for Accreditation of Counseling and Related Educational Programs. This experience may not be used to meet the post-master's clinical experience requirement.

Provisional license holders must work under the supervision of a licensed mental health professional until the individuals receive a license or a letter from the department stating that they are licensed as a clinical social worker, marriage and family therapist, or mental health counselor.

A provisional license expires 24 months after its date of issue and may not be renewed or reissued (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Jim is a registered social worker in the province of Ontario, Canada, and has been in practice for twenty years. He and his partner have decided to semi-retire and travel between Ontario in the summer and Florida in the winter. Jim would like to work or volunteer part-time as a licensed clinical social worker during the winter months he spends in Florida. While applying for his licensure by examination, it was difficult to obtain descriptions of a few of his college courses on his transcript to prove they met the

Florida licensure standards, which delayed scheduling his exam. The board recognized 20 semester hours of coursework without additional proof and his documentation for his 20 years of experience and issued Jim a provisional license to practice social work in Florida. Jim now has two years to complete his exam and provide the additional documentation required to receive his licensure by examination.

### **Questions for Consideration**

How might Jim have avoided this difficulty? What restriction must Jim follow while practicing with a provisional license? Are there other examples you can give where someone would be issued a provisional license?

### **Discussion**

The provisional licensure is for practitioners who have completed a graduate degree in social work, marriage and family therapy, or in a mental health counseling field and have completed their experience hours. They are applying for licensure by examination or endorsement but are missing some aspects of Florida licensure requirements that must be completed. While working under a provisional license, practitioners must practice under the supervision of a licensed mental health professional until they receive their licensure by examination or endorsement.

### **Licensure by Examination**

Licensure by examination is for those who have completed two years and 1,500 hours of supervised clinical experience.

### **Clinical Social Work**

An applicant must complete the following steps for the board to certify that the individual is a licensed Clinical Social Worker in the State of Florida by examination.

- Submitted an application and fee of \$180. The application form can be found here: <https://floridasmentalhealthprofessions.gov/licensing/licensed-clinical-social-worker/>
- Received a doctoral degree in social work from a recognized graduate school of social work accredited by the United States Department of Education OR

Has received a master's degree in social work from a recognized graduate school of social work accredited by the Council of Social Work Education or by the Canadian Association of Schools of Social Work or has graduated from a program equivalent to and recognized by the Council on Social Work Education's Foreign Equivalency Determination Service. An individual who has graduated from a college or university program outside of the United States or Canada must provide equivalency determination documentation from the Council to qualify.

- The graduate program must have focused on direct clinical patient or client health care services and included coursework in clinical social work, medical social work, psychiatric social work, social casework, psychotherapy, or group therapy.
  - The graduate program must have included a supervised field placement in which the individual provided direct clinical services to clients.
  - The applicant must have completed 24 semester or 32 quarter hours in the theory of human behavior, clinically oriented services practice methods, at least one course in psychopathology, and a maximum of one course in research.
  - If the course title on the individual's transcript does not identify the coursework content, the person will be required to provide additional documentation (Ex. a syllabus or catalog description published for the course).
- Has completed at least two years of clinical social work experience, which took place after completing a graduate degree in social work at an accredited institution, AND under the supervision of a licensed clinical social worker or a qualified equivalent supervisor approved by the board.
  - A person who plans to practice in Florida to meet clinical experience requirements must register as an Intern before commencing practice.
  - If the applicant's graduate program did not emphasize direct clinical patient or client health care services, the supervised experience requirement must be completed after completing a minimum of 15 semester hours (22 quarter hours ) of the required coursework.
  - A doctoral internship can be applied to the clinical social work experience requirement.

- A licensed mental health professional must be available on location of the private practice setting when a registered intern provides clinical services.
- Has passed the department's theory and practice examination for this purpose.
- Has demonstrated knowledge of the laws and rules of Florida governing the practice of clinical social work, marriage and family therapy, and mental health counseling.
- Coursework taken at a baccalaureate level can not be used toward completing the education requirements for licensure. Exemption to this requires an official of the graduate program to certify in writing, on the graduate school's letterhead, that a specific course that graduate program students are typically required to complete at the master's level was waived or exempted due to completion of a similar course at the baccalaureate level. If this step is met, the board will apply the baccalaureate course exemption toward the education requirements.
- An individual from a master's or doctoral program in social work that did not emphasize direct client services must complete the clinical curriculum content requirement by going back to an accredited graduate program to complete the education requirements for examination. A maximum of 6 semester hours (9 quarter hours) of the clinical curriculum content may be completed by independent study coursework credit as defined by board rule (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Marriage and Family Therapy**

An applicant must complete the following steps for the board to certify the individual is a licensed Marriage and Family Therapist in the State of Florida by examination.

- Submitted an application and fee of \$180. The application form can be found here: <https://floridasmentalhealthprofessions.gov/licensing/licensed-marriage-and-family-therapist/>
- Has received a master's degree in marriage and family therapy from an accredited program recognized by the Commission on Accreditation for Marriage and Family Therapy Education OR a master's degree with a major in marriage and family therapy or a closely related field from an accredited university program recognized by the Council on Accreditation of Counseling and Related Educational Programs and graduate courses approved by the board OR a master's degree with

an emphasis in marriage and family therapy or a closely related field, if the degree was conferred before September 1, 2027, from an accredited college or university and graduate courses approved by the board.

- If the course title on the applicant's transcript does not identify the content of the coursework, they will be required to provide additional documentation (Ex.syllabus or catalog description published for the course).
- The master's degree must have been received at an accredited institution of higher education. The accreditation must be recognized by the Council for Higher Education Accreditation or was a member in good standing with Universities Canada. A university or college outside the United States or Canada must have met an equivalent standard of training or exceed the standards of training of those accredited institutions in the United States and be recognized by the Council for Higher Education Accreditation.
  - Foreign education and training must have been completed in an institution of higher education program that trains students to practice as professional marriage and family therapists or psychotherapists, officially recognized by the country's government. It is the applicant's responsibility to establish that this provision's requirements have been met by supplying the board with the required documentation. This may include a foreign equivalency determination service statement proving that the applicant's education and graduate degree program were equivalent to an accredited program in the United States. An individual with a master's degree from a program that did not specialize in marriage and family therapy must complete the required coursework in an accredited training institution as recognized by the Commission on Accreditation for Marriage and Family Therapy Education and by the United States Department of Education.
- Completed at least two years of post-master's level clinical experience during which fifty percent of the applicant's client caseload were receiving marriage and family therapy services, AND the applicant received supervision from an experienced (at least five years) licensed marriage and family therapist, or a qualified equivalent supervisor approved by the board.
  - A person who plans to practice in Florida to complete clinical experience requirements must register as an Intern before commencing practice.

- If an applicant has a master's degree that did not include all of the required coursework of an accredited marriage and family therapy degree, credit for the post-master's level clinical experience may not begin until the individual has completed a minimum of 10 of the required courses of an accredited program. A minimum of 6 semester or 9 quarter hours of the course credits must have been completed specifically in marriage and family systems, theories, or techniques.
- During the two years of required experience, the applicant will provide direct individual, group, or family therapy. This will include counseling for cases involving unmarried dyads, married couples, separating and divorcing couples, and family groups that include children.
- A doctoral internship can be applied toward the marriage and family therapy clinical experience requirement.
- A licensed mental health professional must be available at the location of the private practice when a registered intern provides clinical services.
- Has passed the department's theory and practice examination.
- Has demonstrated knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling in the State of Florida (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Mental Health Counseling**

An applicant must complete the following steps for the board to certify that the individual is a licensed Mental Health Counselor in the State of Florida by examination.

- Submitted an application and fee of \$180. The application form can be found here: <https://floridasmentalhealthprofessions.gov/licensing/licensed-mental-health-counselor/>
- Has received a master's degree from an accredited mental health counseling program recognized by the Council for the Accreditation of Counseling and Related Educational Programs. Including completing at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, a minimum of one course in substance abuse, and a course in human sexuality.

- If the applicant's master's degree was earned from a mental health counseling program that is not recognized by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and practicum, internship, or fieldwork must include at least 60 semester hours (80 quarter hours) and also meet all of the following requirements:
  - Thirty-three semester hours (44 quarter hours) of graduate coursework, which must include a minimum of 3 semester hours (4 quarter hours) of graduate-level coursework in each of the following 11 content areas: human growth and development; counseling theories and practice; human sexuality; diagnosis and treatment of psychopathology; individual evaluation and assessment; substance abuse; group theories and practice; career and lifestyle assessment; social and cultural foundations; research and program evaluation; and legal, ethical, and professional standards issues in the practice of mental health counseling. Research, thesis, dissertation work, practicums, internships, or fieldwork courses may not be applied toward this requirement.
  - Completed a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in diagnostic processes, differential diagnosis, and utilizing current diagnostic tools, including the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.
  - Completed the equivalent of at least 700 hours of university-sponsored supervised clinical internship, practicum, or field experience, including at least 280 hours of direct client services, as required by the standards set forth by the Council for Accreditation of Counseling and Related Educational Programs for mental health counseling programs. This experience may not be used to meet the post-master's clinical experience requirement.
- As of July 1, 2025, all applicants must have a master's degree from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs, the Masters in Psychology and Counseling Accreditation Council, or an equivalent accrediting body that consists of at least 60 semester hours (80 quarter hours) to apply for licensure as a mental health counselor.



- If the course title on the applicant's transcript does not identify the content of the coursework, they will be required to provide additional documentation (Ex. syllabus or catalog description published for the course).
- The master's degree must have been received at an accredited institution of higher education. The accreditation must be recognized by the Council for Higher Education Accreditation or was a member in good standing with Universities Canada. A college or university located outside the United States or Canada must have met an equivalent standard of training or exceed the standards of training of those accredited institutions in the United States as recognized by the Council for Higher Education Accreditation.
  - Foreign education and training must have been obtained in a college or university officially recognized by the country's government as a program to train students to practice as professional mental health counselors. It is the applicant's responsibility to establish that this provision's requirements have been met. The board will require documentation as evidence that the applicant's education and graduate degree program were equivalent to the United States accredited program, such as an evaluation by a foreign equivalency determination service.
- Completed at least two years of post-master's level clinical experience in mental health counseling AND under the supervision of a licensed mental health counselor or a qualified equivalent supervisor approved by the board.
  - A person who plans to practice in Florida to complete clinical experience requirements must register as an Intern before commencing practice.
  - If an applicant has a master's degree with a major related to the practice of mental health counseling but that did not include all the coursework required as listed above, credit for the post-master's level clinical experience may not start until the individual has completed a minimum of seven of the required courses as listed above, one of which is mandated to be a course in psychopathology or abnormal psychology.
  - A doctoral internship can be applied toward the mental health counselor clinical experience requirement.
  - A licensed mental health professional must be available at the private practice location when a registered intern provides clinical services.



- Has passed the department's theory and practice examination.
- Has demonstrated knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling in the State of Florida (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Amanda has completed her master's degree in Marriage and Family Therapy and has spent the past two years working for a children and families' community mental health agency. She has been tracking her direct client contact hours while she provides counseling to the children on her caseload, and she has met her 1500 hours of direct psychotherapy hours. Her supervisor is professional and supportive, and they have met for hourly supervision weekly. Amanda and her supervisor have kept a log, and she has 100 hours of supervision. She already passed her exam from the Examination Advisory Committee of the Association of Marital and Family Therapy Regulatory Boards shortly after graduation. She has attended a 2-hour domestic violence training, a 3-hour HIV/AIDS training, and an 8-hour Florida laws and rules training. She completes her application and sends in her supporting documentation. She expects to hear from the board granting her licensure in the next 30 days.

### **Questions for Consideration**

Is Amanda missing any documentation for her licensure application that will cause the board to send her an application deficiency letter?

### **Discussion**

The case example does not make it clear if Amanda sent in her application fee of \$180 with her application and supporting documents. Nothing will be processed if she fails to include the fee. Official transcripts are also required supporting documents, and that is not listed in the above case example. Failing to include those would lead to Amanda receiving a deficiency letter, and her application would be on hold until she submitted those and any other requested documents from the board.

### **Dual Licensure**

The department will license as a marriage and family therapist any individuals who demonstrate to the board that they:

- Have a valid, active license for at least three years under their relevant professional State of Florida Statutes as a psychologist OR as a clinical social worker or mental health counselor OR as an advanced practice registered nurse whom the Board of Nursing has determined as a specialist in psychiatric mental health
- Have passed the examination provided by the department for marriage and family therapy (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Adam is a licensed mental health counselor who has been working in the mental health and substance abuse fields for the past five years. He has decided to obtain dual licensure as he believes this will improve his knowledge and credibility as he sees daily how family histories impact his clients. He would like to explore this more with them. Adam passed the exam by the Examination Advisory Committee of the Association of Marital and Family Therapy Regulatory Boards. Adam submitted his \$100 licensure fee.

### **Questions for Consideration**

What benefits would there be to having dual licensure? Conversely, what drawback might there be?

### **Discussion**

Some benefits of having dual licensure may be employment opportunities. Some drawbacks of having dual licensure are the renewal fees and the continuing education requirements that may be different based on one's original degree, and the type of license that has been issued (ex. psychiatric nurse & licensed marriage and family therapist). Individuals would also be required to know the laws and rules of both licenses they hold.

### **Licensure by Endorsement**

An applicant must complete the following steps for the board to grant a license by endorsement within the profession.

- Submitted an application and fee of \$180. The application form can be found here: <https://floridasmmentalhealthprofessions.gov/licensing>

- Licensure by endorsement is for practitioners who hold an active and unencumbered license in another state and have actively been practicing at the highest level in their state for at least three of the last five years.
- Has demonstrated knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling in the State of Florida.
- Has passed the Florida licensure examination in the profession for which the person seeks licensure or has passed an equivalent licensing examination in another state.
- Has a license in good standing, is not under investigation for an act that would constitute a violation, and has not been found to have committed any act that would constitute a violation of the professional statutes of the State of Florida. The department will not issue a license or certificate to anyone under investigation for a professional violation in this state or another jurisdiction until that investigation is complete and has met the provisions provided regarding discipline.
- A person practicing under the Professional Counselors Licensure Compact and is therefore licensed as a clinical social worker, marriage and family therapist, or mental health counselor in another state, is exempt from the licensure requirements of this section (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Tamara is a licensed clinical social worker in New York State. She has been licensed and practicing for ten years. Her parents live in Florida and are aging and need extra support. She is moving to Florida to be near them and be able to assist them as needed. Tamara will need to be licensed in Florida so she can find employment. She learns that due to her experience, she is able to apply for licensure by endorsement.

### **Questions for Consideration**

What steps does Tamara need to take to become licensed by endorsement in Florida?

### **Discussion**

Tamara would need to complete the following steps to be licensed by endorsement. She must provide proof of her New York State license by completing the license verification form found here: <https://floridasmmentalhealthprofessions.gov/forms/license-certification.pdf>. As she is licensed in New York, which requires passing the Association of Social Work Boards exam, she does not need to sit for the exam again. She will need to complete the following continuing education courses: 2 hours on domestic violence, 3 hours on HIV/AIDS, and 8 hours on Florida laws and rules.

## **Instruction Requirement on HIV & AIDS**

All persons completing an initial application for licensure by examination or by endorsement must complete a two-hour course on human immunodeficiency virus and acquired immune deficiency syndrome as a condition of licensure. If individuals have not completed a course at the time of licensure application, they must submit an affidavit showing good cause and be granted six months to complete this requirement (Clinical, Counseling, and Psychotherapy Services, 2022). The affidavit can be found here: <https://floridasmmentalhealthprofessions.gov/forms/hiv-aids-affidavit.pdf>

The following is an example of a number of ethical decisions that may need to be made regarding the duty to warn, confidentiality, and privileged communication from the American Counseling Association:

### **Case Example**

Dominique is a 28-year-old male and the star player of a professional football team. He was recently arrested on drunk driving charges, and his team requires that he complete mandatory counseling to be eligible to continue playing in the season. As part of the referral, it is noted that several teammates have observed that Dominique no longer cares for his physical appearance, as he once did, and that he is often "moody." In his third counseling session, Dominique reveals that he was diagnosed with AIDS 3 years ago and feels that his life is harder to deal with because of the disease. He reports that he frequently takes medication "holidays" because the side effects impact his performance on the field. Thus far, through a series of payments to the team doctor, Dominique has been able to hide his diagnosis from both the team and the public. During a session, Dominique discloses that he has been in a relationship for two weeks. He has not informed his girlfriend, Michelle, of his diagnosis because he believes she will reject him. He states that if she rejects him, he will kill her. Michelle and Dominique have come close to being intimate several times, and Dominique is considering moving

forward in the relationship without telling her. Dominique reports having had many previous sexual encounters with other partners without informing them of his diagnosis. The day after the third session, the counselor logs into their Instagram account and views the "trending" page. Two of Dominique's pictures have made the "Trending" feed, and the pictures, along with his captions, display him showing off guns and knives and comparing himself to Shakespeare's Othello.

### Questions for Consideration

- Is there imminent harm to self by taking "medication holidays"?
- Dominique is a mandated client; what informed consent was reviewed, and what are the team's expectations for reporting back on Dominique's participation in therapy?
- Is there imminent harm to others? Dominique has stated he has not informed previous sexual partners of his AIDS status, and he does not plan to inform Michelle. If she does find out and rejects him, he states he will kill her. Different state laws may impact how much information you can and cannot share regarding HIV/AIDS diagnoses.
- What are the ethical implications of looking at Dominique's Instagram account? While the therapist did not intentionally seek his account out, it was viewed on the trending accounts page.
- Should the therapist seek consultation from a supervisor, knowledgeable colleagues, an attorney, or all of the above?

### Discussion

As is often the case for professional counselors, there is no clear-cut, black-or-white answer to the conflict in this scenario. At a minimum, after consulting with others, speaking further with the client, and making a decision, the professional counselor should document what action is taken and the rationale for doing so. This is a clear example of why it is important to complete HIV/AIDS training to be aware of the latest laws regarding the diagnosis, confidentiality, and privileged communication between a client and therapist. It is also an example of why it is important for each professional to be aware of the professional code of conduct and why the state of Florida requires continuing education hours on ethics. Clinicians often have to grapple with many ethical dilemmas in one case, and they must be aware of their legal and professional obligations.

## Renewal of Licensure

Florida requires licenses to be renewed biennially. Renewal information can be found here: <https://floridasmentalhealthprofessions.gov/renewals/>.

- A renewal application must be completed online, and a renewal fee of \$120 must be submitted with the application. At least 90 days before one's license expires, the department will mail a renewal notification postcard to the licensee's last known mailing address. The licensee has until midnight on the day the license expires to renew. Failure to renew an active license before the expiration date places the license in delinquent status. The license immediately becomes null and void once it is placed in delinquent status due to failure to renew before the expiration date. No further action is required by the board or the department once a license has been placed in delinquent status. Renewing an active license after it has expired has additional fees for a total cost of \$225. If the licensee is delinquent over 120 days, the fee is then raised to \$355 to renew their license.
- Licensed professionals are expected to complete 30 hours of continuing education every two years. Twenty-five hours can be on general topics of the practitioner's choice, two credit hours must be on medical errors, and 3 hours must be on Ethics and Boundaries OR Telehealth. Every third biennium, practitioners are required to have 3 of their 25 general hours be a review of Florida Laws and Rules and 2 of their 25 general hours on topics of Domestic Violence.
- Continuing education hours must be completed through board-approved providers.
- General continuing education hours can also be attained in the following manner:
  - Up to 3 hours of attending a board meeting
  - Up to 10 hours for being a moderator or presenter
  - Up to 5 hours for being a graduate-level course instructor
- Practitioners who are renewing their license for the first time are exempt from completing continuing education.
- There is no limitation on how many hours are earned via home study courses (Clinical, Counseling, and Psychotherapy Services, 2022).

## Case Example

Melissa is a licensed mental health counselor. She knows she has completed her 30 hours of continuing education, many of her hours have been independent studies online, and that she can renew her license online. She received her 90-day renewal notification but set it aside to deal with more pressing clinical matters, and her personal life got busy. The evening her license is due to expire, she gets online and signs into her account on the department's website to renew her license. As she is entering her continuing education hours, she realizes while she did complete 30 hours of general continuing education, she did not complete the two hours on medical errors that are required (she did complete the three hours on ethics and boundaries).

## Questions for Consideration

Has Melissa completed too many online continuing education hours instead of in-person hours? What options does Melissa have to be able to renew her license now that she has not completed all the requirements?

## Discussion

Florida does not restrict how many continuing education hours are earned in person versus independent home study hours; the ratio does not matter when Melissa enters her continuing education courses. However, the two-hour medical errors course is a renewal requirement. Melissa can complete that course as soon as possible and submit those hours to the department. Because she is now late renewing her license, her renewal fee has jumped from \$120 to \$225.

## Inactive Status

Inactive status is attained when a licensee applies for inactive status and submits a \$55 fee to the board.

- Inactive status can be renewed biennially for \$55. Renewals must be completed prior to expiring or they will be placed into delinquent status. If the inactive license status was not renewed before expiration, the renewal fee is \$160. If it has been allowed to be delinquent for over 120 days, the renewal fee is raised to \$215.
- Reactivating an inactive license is done by submitting an application to the department, paying \$170, which includes the reactivation fee plus the current



biennial renewal fee, completing the continuing education requirements, complying with any background investigation required, and complying with other requirements requested by the board (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Brianna is a licensed marriage and family therapist. She recently received her renewal notice in the mail. She has a one-and-a-half-year-old daughter and is pregnant. She has decided she will stay home with her children until they are school-age. She does not plan to offer any telehealth services to clients, work part-time at her previous employer, or volunteer as a mental health professional in any capacity while her children are preschool age. She submitted her \$55 fee and requested the board to place her license on inactive status.

### **Questions for Consideration**

What will Brianna be required to do to reactivate her license when her two children are school-age and she plans to return to work?

### **Discussion**

Due to her children's ages, if Brianna stays with her plan to be home with her school-age children, she will most likely place her license on inactive status for at least one more renewal cycle. When she is ready to return to work, she will need to submit a license renewal fee from inactive to active of \$170. She will need to have completed her 30 hours of continuing education with the required specific courses that are expected during that time frame. If she does maintain inactive status for two biennial cycles, the board may require her to complete an examination, additional background check, or educational requirement before granting her renewal. When Brianna is ready to reactivate her license, she should contact the board at: [info@floridasmentalhealthprofessions.gov](mailto:info@floridasmentalhealthprofessions.gov) to discuss what requirements she must meet to reactivate her license.

### **Continuing Education Requirements**

The department or the board will approve continuing education providers, programs, and courses, including laws and rules courses and their providers and programs.



The department or the board is authorized to set a fee for each continuing education provider applicant who applies for or renews its provider status. The fees collected will be deposited into the Medical Quality Assurance Trust Fund.

Proof of completion of the required 30 hours of continuing education biennially, including the completion of the laws and rules course, must be submitted to the department before licensing renewal approval. In addition, continuing education hours are reviewed by The Department of Health, Division of Medical Quality Assurance. This is done through the continuing education electronic tracking system, CEBroker. A free account can be created at <https://cebroker.com/fl/account/basic/>. Continuing education history can be tracked and include a list of the course name, educational provider name, date of completion, and hours reported. It is the responsibility of the licensees to determine whether the courses that have been reported will complete their specific continuing education requirements. CEBroker also lists all available continuing education programs available that are approved and meet Florida continuing education requirements (Clinical, Counseling, and Psychotherapy Services, 2022; CEBroker, 2022).

## Discipline

The below actions are grounds for the board to deny issuing a license or to take disciplinary action against a licensee:

- Seeking to obtain, obtaining, or renewing a license, registration, or certificate by bribery, fraudulent misrepresentation, or through an error of the board or the department.
- Holding a license, registration, or certificate to practice in a similar field suspended, revoked, or acted against in a manner, including denying licensure, registration, or certification by another state, territory, or country.
- Being convicted or found guilty of, regardless of resolution, or entering a plea of nolo contendere to, a crime in any jurisdiction directly related to the practice of their profession or the ability to practice their profession. In the case of a plea of nolo contendere, the board will allow the individual who is the subject of the disciplinary proceeding to present mitigating evidence relevant to the underlying charges and circumstances surrounding the plea.
- Deceptive, misleading, or false advertising, obtaining a fee or bartering on the representation of guaranteed, beneficial results from any treatment.

- Advertising, attempting to practice, or practicing under a pseudonym other than one's legal name that is on one's license, registration, or certificate.
- Having a professional association with any person whom the applicant, registered intern, certificate holder, or licensee has reason to believe or knows, the person is in violation of Florida Statutes regarding Clinical, Counseling, or Psychotherapy Services or a rule of the department or the board.
- Knowingly aiding, assisting, procuring, or advising any nonregistered, noncertified, or nonlicensed individual to hold themselves out as licensed, registered, or certified under the Florida Statutes regarding Clinical, Counseling, or Psychotherapy Services.
- Failing to perform any regulatory or legal obligation expected of a person licensed, registered, or certified under the Florida Statutes regarding Clinical, Counseling, or Psychotherapy Services.
- Knowingly making or filing a false report or record; failing to submit a report or record required by state or federal law; deliberately impeding or obstructing the filing of a report or record. Or coercing another individual to make or file a false report or record or to impede or obstruct the filing of a report or record. Such a report or record includes only a report or record which requires the signature of a person licensed, registered, or certified under chapter 491.
- Paying a kickback, rebate, bonus, or other compensation for seeing a client, or receiving a kickback, bonus, rebate, or other compensation for referring a client to another mental health care provider or health care provider for services or goods; referring a client to oneself for services on a fee-paid basis when some other public or private entity is already paying for those services; or entering into a reciprocal referral agreement.
- Committing any act upon a client that would constitute sexual battery or that would constitute sexual misconduct as defined by the Sexual Misconduct Section (see below).
- Making statements that are misleading, untrue, deceptive, or fraudulent representations in the practice of any profession registered, certified, or licensed under chapter 491 of the Florida Statutes.
- Soliciting clients oneself or through an agent, where there is intimidation, undue influence, fraud, or a form of overreaching or vexatious conduct.

- Failing to release to a client, upon written request, copies of reports, documents, or tests in the possession or under the control of the registered intern, certificate holder, or licensee, which have been prepared and paid for by the client.
- Failing to respond to written communication from the department or board within 30 days regarding an investigation by the department or the board or failing to provide any relevant records concerning an investigation about the registered intern's, certificate holder's, or licensee's conduct or background.
- Inability to practice the profession for which one is registered, certified, or licensed under chapter 491 with reasonable skill or competence due to a mental or physical condition or because of illness or excessive use of drugs, alcohol, narcotics, or any other substance. Upon a finding by the State Surgeon General, the State Surgeon General's designee, or the board that probable cause exists to believe that the registered intern, certificate holder, or licensee is unable to competently practice the profession due to the reasons stated above, the department has the authority to compel a registered intern, certificate holder or licensee to complete a mental or physical examination by psychologists, physicians, or other professional licensees under chapter 491, designated by the department or board. Suppose the registered intern, certificate holder, or licensee refuses to comply with such an order. In that case, the department's order directing the examination can be enforced through filing a petition for enforcement in the circuit court where the registered intern, certificate holder, or licensee resides or has their business. The registered intern, certificate holder, or licensee against whom the petition is filed can not be named outright or identified by initials in any public court records or documents. The proceedings will be closed to the public. The department will be entitled to the summary procedure set forth by the Florida Statutes under the Civil Practice and Procedures. The full process for Summary Procedures can be found here: [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0000-0099/0051/Sections/0051.011.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0051/Sections/0051.011.html). A registered intern, certificate holder, or licensee affected under this section will, at reasonable intervals, be allowed to demonstrate that they are able to resume the competent practice for which they are registered, certified, or licensed with reasonable skill and safety to clients.
- Performing any treatment or therapy on human subjects without first obtaining full, informed, and written consent where the treatment or therapy would be

considered experimental by prevailing standards of the mental health professional community.

- Failing to meet the minimum standards of professional activities or performance when measured against generally prevailing peer performance, including undertaking activities for which the licensee, registered intern, or certificate holder is not qualified by training or experience.
- Delegating professional responsibilities to an individual whom the registered intern, certificate holder, or licensee has reason to know or knows is not qualified by training or experience to perform such responsibilities.
- Violating a rule previously entered in a disciplinary hearing regarding the regulation of the profession or a lawful order from the department or the board.
- Failure of the registered intern, certificate holder, or licensee to maintain in confidence a communication made by a client in the context of such services, except as provided for under Confidential and Privileged Communications (see below)
- Making public statements derived from test data, client contacts, or behavioral research that identify or damage research subjects or clients.
- Violating any provision of chapter 491 or chapter 456 or any rules adopted according to that (Clinical, Counseling, and Psychotherapy Services, 2022).

The board or the department may enter an order denying licensure or imposing any of the penalties authorized by the Florida Statutes in the regulation of Health Professions discipline and penalties. See Appendix B for additional disciplinary actions, penalties, and enforcement.

The board may take action against a clinical social worker's, a marriage and family therapist's, or a mental health counselor's privilege to practice under the Professional Counselors Licensure Compact. In addition, it may impose any of the penalties in the health professions and occupations discipline, penalties, and enforcement if the clinical social worker, marriage and family therapist, or mental health counselor commits an act specified under said chapter (See Appendix B) (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Examples**

The following are case examples that took place in Florida in 2021 & 2022 and were investigated by the department.

- The practitioner discussed other clients in detail while in sessions with a client.
- The practitioner who was in recovery attended the same NA/AA as a client.
- The practitioner wrote an emotional support animal letter for a person who was not a client and who was never interviewed or assessed.
- The practitioner changed employers and logged in with a new boss to an old employer's EHR to demonstrate how the system worked as the new employer was considering upgrading to a new EHR system. While logged in to do the demonstration, the practitioner's old client's names and diagnosis codes were exposed to the new employer.
- The practitioner was licensed in two states, in violation in one state, and one license was suspended. The individual did not notify the state of Florida, which now places that person in violation in Florida as well.
- The practitioner hired a client to paint one of the practitioner's family members' homes.
- The practitioner becomes close family friends with clients in couples therapy, attending family events and trips together.
- The practitioner was acting erratic and was found to be using substances at work. The practitioner is terminated; empty and partial bottles of alcohol are found throughout the office when the agency cleans out the practitioner's office.
- The practitioner is charged with healthcare fraud. Even though a bill was issued for client services, there are no progress notes to support the client being seen.
- The practitioner is charged with healthcare fraud, completing false progress notes, and billing for the client on three dates after the client had passed away (Florida Health, 2022).

### **Questions for Consideration**

Which of the above violations surprised you the most? Which of the above violations do you believe would be the easiest to be in violation of, and should you take extra care with?

## Discussion

Violations occur over a vast area of behaviors, boundary violations, and negligence. Should one be aware of violations by colleagues, one should try and address them directly with the colleague or with the help of a supervisor or human resources. Should this not resolve the issue, or it is a violation that could harm others, it should be reported to the department and/or law enforcement if someone is in imminent danger. If you are unsure if a behavior is sufficient to escalate to a complaint, the online complaint program has a screening process to help assess the situation and, if it is to the level, to justify filing a complaint. Filing a complaint can be completed here: <https://mqa-flhealthcomplaint.doh.state.fl.us/>.

## Sexual Misconduct

Sexual misconduct by any individuals licensed or certified under the State of Florida Statutes for Clinical, Counseling, and Psychotherapy Services in the practice of their profession is prohibited.

Any practitioner who terminates a professional relationship with a client or former client for the purpose of engaging in a sexual relationship is committing sexual misconduct, which is a felony of the third degree and is punishable by a fine not to exceed \$5000 and/or a term of imprisonment not to exceed five years. A second or subsequent offense is a felony of the second degree, punishable by a fine not to exceed \$10,000 and/or a term of imprisonment not to exceed 15 years.

Any psychotherapist who violates the above using therapeutic deception commits a felony of the second degree punishable by a fine not to exceed \$10,000 and/or a term of imprisonment not to exceed 15 years. However, a habitual offender of a felony of the second degree can be sentenced to up to 30 years imprisonment and must serve a minimum of 10 years before being eligible for release.

The giving of consent by a client to any sexual act will not be a defense to these offenses (Clinical, Counseling, and Psychotherapy Services, 2022).

The definition of terms in this section are as follows:

**Client:** the person who is receiving the services provided by a psychotherapist.

**Female genitals:** includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

**Psychotherapist:** any person licensed in the State of Florida as a Physician, Osteopathic Physician, Registered Nurse or Licensed Practical Nurse, Psychologist, Clinical Social Worker, Marriage and Family Therapist, Mental Health Counselor, or any other person who provides or claims to provide assessment, diagnosis, evaluation, treatment, or counseling of mental or emotional illness, symptom, or condition.

**Sexual misconduct:** the oral, anal, or female genital penetration of another by, or contact with, the sexual organ of another or the anal or female genital penetration of another by any object.

**Therapeutic deception:** a representation to a client that sexual contact by the practitioner is consistent with or part of the client's treatment (Clinical, Counseling, and Psychotherapy Services, 2022).

### Case Examples

- The practitioner gave and received oral sex from a minor patient.
- The practitioner and an adult client have an ongoing sexual relationship.
- The practitioner begins a sexual relationship with an adult suicidal client. The client calls the practitioner and reports being suicidal. The practitioner has the client come to their home and whips the client to help block out suicidal ideations.
- The practitioner asked for explicit details about the client's sex life and the individual's use of pornography. The client was seeking counseling for grief issues.
- The practitioner was charged with receiving child pornography.

### Questions for Consideration

Which of the above violations surprises you the most? How does one maintain ethical boundaries with clients and not fall into justifying sexual misconduct?

### Discussion

Any sexual contact with a client is illegal and in violation of the laws and rules governing practice. It is also unethical and against all the mental health associations' codes of

conduct or ethical standards. It does not matter if the client is an adult capable of consenting to a sexual relationship. The practitioner is in a position of authority and power, and therefore consent can not be granted. Should you be aware of a colleague who is in a sexual relationship with a client, it should be reported immediately at: <https://mqa-flhealthcomplaint.doh.state.fl.us/>.

## Violations and Penalties

It is unlawful and a violation of Florida Statutes for any person to:

- Use the following titles or any combination of them unless they hold a valid and active clinical social work license issued by the board:
  - Licensed clinical social worker.
  - Clinical social worker.
  - Licensed social worker.
  - Psychiatric social worker.
  - Psychosocial worker.
- Use the following titles or any combination of them unless they hold a valid and active marriage and family therapist license issued by the board:
  - Licensed marriage and family therapist.
  - Marriage and family therapist.
  - Marriage counselor.
  - Marriage consultant.
  - Family therapist.
  - Family counselor.
  - Family consultant.
- Use the following titles or any combination of them unless they hold a valid and active mental health counselor license issued by the board:



- Licensed mental health counselor.
  - Mental health counselor.
  - Mental health therapist.
  - Mental health consultant.
- Use the terms psychotherapist, sex therapist, or juvenile sexual offender therapist unless they are licensed as a clinical social worker, marriage and family therapist, mental health counselor, psychologist, or recognized by the board as an advanced practice registered nurse specializing in psychiatric mental health who's use of such terms is within the scope of their practice based on their education, training, and licensure.
  - Present someone else's license in clinical social work, marriage and family therapy, or mental health counseling as their own.
  - Give false or forged documentation to the board or a member of the board for the purpose of obtaining a license.
  - Use or attempt to use an issued license that has been revoked or is under suspension.
  - Knowingly conceal information relative to violations.
  - Practice clinical social work in the State of Florida for payment unless the person holds a valid and active license to practice clinical social work issued by the board or is a recognized registered intern by the board.
  - Practice marriage and family therapy in the State of Florida for payment unless the person holds a valid and active license to practice marriage and family therapy issued by the board or is a recognized registered intern by the board.
  - Practice mental health counseling in the State of Florida for payment unless the person holds a valid and active license to practice mental health counseling issued by the board or is a recognized registered intern by the board.
  - Use the following titles or any combination of them unless they hold a valid registration as an intern issued by the board:
    - Registered clinical social worker intern.

- Registered marriage and family therapist intern.
- Registered mental health counselor intern.
- Use the following titles or any combination of them unless they hold a valid provisional license issued by the board:
  - Provisional clinical social worker licensee.
  - Provisional marriage and family therapist licensee.
  - Provisional mental health counselor licensee.
- Practice juvenile sexual offender therapy in Florida for compensation unless the person holds an active license issued by the board and meets the requirements to practice juvenile sexual offender therapy. The exception to this rule is for employment through a program either run by or under contract with the Department of Children and Families or the Department of Juvenile Justice. Under these two departments, an unlicensed person can provide services if the program has also hired a licensed physician, osteopathic physician, psychologist, clinical social worker, marriage and family therapist, or mental health counselor who manages or supervises the treatment services.
- It is unlawful and a violation of Florida statutes for any persons to describe their services using the following terms or any combination of them unless such individuals hold a valid, active license as a psychologist, clinical social worker, marriage and family therapist, mental health counselor, or recognized by the board as an advanced practice registered nurse specializing in psychiatric mental health whose use of such terms is within the scope of their practice based on their education, training, and licensure:
  - Psychotherapy.
  - Sex therapy.
  - Sex counseling.
  - Clinical social work.
  - Psychiatric social work.
  - Marriage and family therapy.

- Marriage and family counseling.
- Marriage counseling.
- Family counseling.
- Mental health counseling.

Any person who violates any provision listed above commits a misdemeanor of the first degree, punishable by a fine not to exceed \$1000 and/or a term of imprisonment not to exceed one year (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Madelyn is a bachelor's level social work student. As part of her senior year expectations, she needs field experience hours in a community program setting. Madelyn has chosen to spend the semester completing her hours at a runaway and homeless youth shelter. She spends two afternoons a week observing the community group the clinical social worker runs for the youth covering a wide range of topics from life skills to coping skills and health education. For the remainder of her time, she helps where she is assigned, sometimes completing office work and other times helping prepare the evening meal for the residents. After completing her first month of group observation, the clinical social worker invites her to participate in some of the groups by presenting topics the clinical social worker assigns to her and is within Madelyn's skill set and training. Around that time, she began to be introduced as a social work intern (previously, before everyone in the program got to know her, she was introduced as a social work student). This shift just sort of naturally happened, and no one really noticed or knows who unofficially changed her title. Madelyn completes her semester of field placement with the runaway and homeless youth shelter program and graduates with her bachelor's in social work later that spring.

### **Questions for Consideration**

Is Madelyn a social work student or a social work intern? Is Madelyn registered as a clinical social work intern? Is she eligible to register as a clinical social work intern? What consequences could Madelyn face for presenting herself as a registered clinical social work intern?

### **Discussion**

Madelyn is a social work student completing her bachelor's level field experience. She is not a registered clinical social work intern, nor is she eligible to register for this designation as she has not completed any graduate-level coursework. Should someone file a complaint against Madelyn for using a title she is not registered or entitled to use, she could face a fine of up to \$1000 and even jail time of up to one year. Individuals can only use titles they are registered, certified, or licensed under. If they do not hold one of those three designations, they can not use any professional title that is protected under Florida statutes.

## Exemptions

- No provision of chapter 491 will be interpreted to limit the practice of physicians licensed under chapter 458 or chapter 459 or psychologists licensed under chapter 490 as long as they do not unlawfully represent themselves to the public as holding a license, provisional license, registration, or certificate issued according to chapter 491 or use a professional title protected by chapter 491.
- No provision of chapter 491 will be interpreted to limit the practice of nursing, school psychology, psychology, or occupational therapy or to prevent other qualified professional members from doing work consistent with their training and licensure as long as they do not represent themselves to the public as holding a license, provisional license, registration, or certificate issued according to chapter 491 or use a title protected by chapter 491.
- No provision of chapter 491 will be interpreted to limit the activities of a priest, rabbi, minister, or other clergy members of any religious denomination or sect. It will not limit the use of the terms "Christian counselor" or "Christian clinical counselor" when the services offered are within the scope of the individual's regular or specialized ministerial duties. The individual receives no compensation, or when such activities are provided, with or without compensation, by a person under the sponsorship, individually or in conjunction with others, of an established and legally recognized church, denomination, or sect, and when the person providing services remains accountable to the established authority of said entity.
- No person will be required to be licensed, provisionally licensed, registered, or certified under chapter 491 who is:

- A government agency salaried employee; a developmental disability program or facility; mental health, alcohol, or drug abuse facility operating under chapter 393 (developmental disabilities), chapter 394 (mental health), or chapter 397 (substance abuse services); the statewide child care resource and referral network are operating under chapter 1002.92 (child care and early childhood resource and referral); a child-placing or child-caring agency licensed under chapter 409 (social and economic assistance); a domestic violence center certified under chapter 39 (proceedings relating to children); an accredited academic institution; or a research facility, where the employee is performing duties that they were trained and hired solely within the confines of the agency, facility, or institution, as long as the employee is not represented to the public as a clinical social worker, mental health counselor, or marriage and family therapist.
- A salaried employee providing counseling services to children, youth, and families, at a private, nonprofit organization if there is no charge to the clients receiving the services, and if the employee is providing services for which they were trained and hired, so long as the employee is not represented to the public as a clinical social worker, mental health counselor, or marriage and family therapist.
- A student is providing services regulated under chapter 491 who are in an educational program pursuing a degree in a profession regulated by chapter 491 and who is providing services in a training setting. The student providing services and any associated activities must be part of a supervised course of study, and they are practicing under the title "student intern."
- Is not a resident of Florida but offers services in this state, provided:
  - Services are provided for no more than 15 days in any calendar year; and
  - The non-resident is licensed or certified to practice the professional services provided in Florida by a state or territory of the United States or by a foreign country.
- No provision of chapter 491 will be interpreted to limit the practice of a person who solely engages in behavior analysis as long as they do not represent

themselves to the public as possessing a license issued according to chapter 491 or using a title protected by chapter 491.

- The exemptions in this section do not apply to any professional licensed under chapter 491 whose license has been suspended or revoked by the board or any other jurisdiction.
- Nothing in this section will be interpreted to exempt a person from meeting the minimum standards of professional performance and activities when compared against generally prevailing peer performance and activities, including the undertaking of activities for which the individual is not qualified by training or experience (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Diana is a licensed marriage and family counselor in Vermont. This past winter, one of her clients spent two months in Florida but wished to continue their work together while they were out of state. Diana agreed to see her client via telehealth while they spent a few months away. Before her client left Vermont, they had an in-person appointment to lay out the expectations for sessions while the client was away. They agreed to meet every other Wednesday morning via Diana's HIPAA-compliant video software program she uses to meet with clients remotely. In total, Diana and her client had seven telehealth appointments while Diana was in Vermont and her client was in Florida. They resumed their in-person sessions when the client returned to Vermont in mid-March.

### **Questions for Consideration**

Diana is not licensed to practice in Florida. Is she breaking the law meeting with her client virtually? Does Diana need to be licensed in Florida in order to meet with her client?

### **Discussion**

Diana is not breaking the law and does not need to be licensed to meet with her client. According to the exemptions list found above, since Diana is licensed in another state, Vermont, and since she is a non-resident of Florida, she is eligible to provide services for up to 15 days without seeking a Florida license. Should Diana's client have stayed longer, and they met more than 15 times, or if Diana had other clients she met with who were located in Florida and her dates of service went over 15 days, she would need to apply for a Florida license. She could do this either as licensure by endorsement, or she could

apply for the Out-of-State Telehealth Provider Registration through the Florida Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling. This would allow her to offer telehealth services only, but without any limitations or restrictions. The details for applying for an Out-of-State Telehealth Provider Registration can be found here: <https://www.flhealthsource.gov/telehealth/files/application-telehealth-provider-registration.pdf>

## Hypnosis

A person licensed by the State of Florida who is qualified to practice hypnosis as determined by the board.

**Hypnosis:** means hypnosis, hypnotism, mesmerism, posthypnotic suggestion, or any similar act or process which is intended to produce or produces in a person any form of induced sleep or trance in which the person's mind is susceptible to suggestion or direction it is intended to be increased or is increased, and when such a process is intended to be used or used in the treatment of any human illness, disease, injury, or for any other therapeutic purpose.

**Healing Arts:** the practice of medicine, psychiatry, psychology, clinical social work, marriage and family therapy, mental health counseling, surgery, dentistry, chiropractic medicine, osteopathic medicine, naturopathy, podiatric medicine, chiropody, and optometry.

**Practitioner of the Healing Arts:** a person licensed under the laws of the state of Florida to practice medicine, psychiatry, psychology, clinical social work, marriage and family therapy, mental health counseling, surgery, dentistry, chiropractic medicine, osteopathic medicine, naturopathy, podiatric medicine, chiropody, and optometry within the scope of their professional training and competence and within the scope of the statutes applicable to their profession, and who may refer a client for treatment by a qualified person, who will use hypnotic techniques under the supervision, direction, prescription, and responsibility of the referring practitioner.

**Qualified person:** a person deemed by the referring practitioner to be qualified by both professional training and experience to be competent to employ a hypnotic technique for therapeutic purposes under supervision, direction, or prescription.

It is unlawful for an individual to engage in the practice of hypnosis for therapeutic purposes unless the person is a practitioner of one of the healing arts listed above or is

practicing under the supervision, direction, prescription, and responsibility of a licensed practitioner.

The practice of hypnosis for nontherapeutic purposes, as long as such individuals do not represent themselves to the public as holding a license issued according to chapter 491 or use a title protected by chapter 491.

### **Penalties**

- Any person who violates the provisions of hypnosis under chapter 491 will be guilty of a second-degree misdemeanor, which is punishable by a fine not to exceed \$500 and/or a term of imprisonment not to exceed 60 days.
- A violation of any of the provisions of hypnosis under chapter 491 by a person licensed to practice in any area of the healing arts in the state of Florida will constitute grounds for license revocation, and the respective boards may take action following the applicable statutes.
- Any person who is damaged or injured by a practitioner of the healing arts or by a person to whom the practitioner may refer a client for treatment may bring a lawsuit against the practitioner, either individually or jointly, with the person to whom the referral was made.
- No civil or criminal resolution for any wrongful action will be excluded or impaired by the provisions of chapter 491 (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Anita is a licensed mental health counselor. She attended a one-day mindfulness training and completed six continuing education hours. One section of the training introduced self-hypnosis, and while practicing in the training seminar, Anita thought it could be quite helpful for several of her clients. She is looking forward to being back in the office next week and teaching her clients the new hypnosis technique she has learned in the mindfulness training.

### **Questions for Consideration**

Does Anita meet the standards of a qualified person to offer competent hypnotic treatment for therapeutic purposes? Why or why not?



## Discussion

Anita holds no official training or certificates outside of the introduction to the technique she received in a training that was not officially on hypnosis but on mindfulness. Anita is clearly not qualified to provide hypnosis services of any kind. She would be in violation of the provisions of chapter 491's section on hypnosis, making her liable not only to fines or imprisonment from the state of Florida but to any clients she treated with hypnosis or taught the technique who believed her negligence injured them. If this is an area Anita finds a real interest in, she should seek additional training and become qualified to offer hypnosis treatment.

## Sex Therapy

Only licensed individuals who meet the qualifications set by the board may represent themselves as sex therapists. The board will set rules defining these qualifications. The board may use the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association or other relevant publications on sexual disorders and sexual dysfunctions when establishing the qualifications (Clinical, Counseling, and Psychotherapy Services, 2022).

## Case Example

Emily is a licensed marriage and family therapist. While in graduate school, she took a class on human sexuality, which she found she had a deep interest in. Since then, her work has focused on couples therapy and marriage counseling. She sees a lot of intimacy struggles and sexual difficulties in her office. She has completed a number of continuing education classes focused on sex therapy and different treatment approaches, which she incorporates into her daily work. She is now considering building off of her specialized training and creating more of a niche practice that focuses solely on sex therapy.

## Questions for Consideration

Before shifting her practice to sex therapy, what steps does Emily need to take to comply with board expectations to advertise herself as a sex therapist?

## Discussion

The paragraph in chapter 491 on sex therapy is vague, and while it insinuates there are qualifications that need to be met, at the time of the writing of the chapter, either the board was not clear what those qualifications would be, or they wished to modify the

qualifications as needed to meet evolving best practices. Emily should contact the board office to discuss the most current requirements for a sex therapist and verify she meets the expectations before shifting her business model. She can contact the board office by phone at: (850) 245-4292 or by email at: info@floridasmentalhealthprofessions.gov.

## **Juvenile Sexual Offender Therapy**

Only a person licensed by chapter 491 who meets the qualifications set by the board may represent themselves as a juvenile sexual offender therapist or a person licensed under chapter 490 as a licensed psychologist. Both chapters 490 & 491 expect the licensee to meet the following qualifications. The board will determine these qualifications. The board will require training and coursework in the specific domain of juvenile sexual offender behaviors, treatments, and related issues. The board may use the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, the Association for the Treatment of Sexual Abusers Practitioner's Handbook, or other relevant publications on sexual disorders and sexual dysfunctions when establishing the qualifications (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Jeremy recently graduated with his master's degree in social work with a clinical services emphasis. He is hired by a residential facility for juvenile sexual offenders to provide one-on-one therapy, run groups, and provide family counseling as the youth prepare to exit the program and return to living in a family setting, be it their own family of origin or a foster family. Jeremy did not have any juvenile sexual offender coursework in his graduate degree. The residential facility has assigned a mentor therapist for Jeremy to initially job shadow the first few weeks of his employment and then to assist in training him in the treatment system the residential facility utilizes. He also has a supervisor, but the mentor is more readily available to answer questions as they arise.

### **Questions for Consideration**

Is Jeremy qualified to be providing juvenile sex offender treatment according to Chapter 491 of the Florida Statutes? Is the mentorship that the residential facility is providing Jeremy sufficient?

### **Discussion**

For Jeremy to provide juvenile sexual offender treatment, he needs to have completed specific coursework addressing juvenile sexual offender behaviors and treatments. While the mentorship meets one aspect of the qualifications regarding training, it is insufficient. Should the residential facility wish for Jeremy to work for them, they should enable or require him to attend a structured educational program on juvenile sexual offenders as a condition of his employment.

## **Certified Master Social Worker**

This is an administrative license for social work. A person cannot provide clinical services with this designation. An applicant must complete the following steps for the department to certify they are a certified master social worker:

- Submitted an application and fee of \$205. The application information can be found here:

<https://floridasmentalhealthprofessions.gov/application-request/>

The application must be received at least 60 days before the examination by the department in order for the applicant to be qualified to schedule the examination.

- The applicant must submit sufficient proof to the department that they have earned a doctoral degree in social work or a master's degree with a specialty or major emphasis in clinical practice or administration, which may include but is not limited to program planning and evaluation, agency administration and supervision, staff development, research, community organization, community services, social planning, and human service advocacy. Doctoral degrees must have been received from an accredited graduate school of social work. The doctoral program's accreditation must have been received from an accrediting body approved by the United States Department of Education. Master's degrees must have been received from an accredited graduate school of social work. The master's program accreditation must have been received by the Council on Social Work Education or the Canadian Association of Schools of Social Work, or by an accrediting body that meets comparable standards.
- The applicant has at least three years of experience, including, but not limited to, clinical services or administrative activities as defined in the previous paragraph, two years of which must be at the post-master's level and under the supervision of a person who meets the education and experience requirements for

certification as a certified master social worker, or licensure as a clinical social worker under chapter 491. A doctoral internship can be applied to the supervision requirement.

- A person with a master's degree in social work from a college or university outside the United States may apply to the department for certification. The academic training in social work the person received has been evaluated as equivalent to a degree from an accredited school by the Council on Social Work Education. The applicant must submit a copy of the academic training from the Foreign Equivalency Determination Service of the Council on Social Work Education.
- The applicant has passed the Advanced Generalist Level Examination from the Association of Social Work Boards required by the department. The nonrefundable fee for the examination is set by the ASWB and is currently \$260.
- Nothing in chapter 491 will be interpreted to authorize a certified master social worker to provide clinical social work services (Clinical, Counseling, and Psychotherapy Services, 2022; ASWB, 2022).

#### **Duties of the department to certified master social worker**

- All functions reserved to boards under chapter 456 (Health Professions and Occupations: General Provisions) will be followed by the department with respect to the regulation of certified master social workers and in a manner consistent with the exercise of its regulatory functions.
- The department will adopt rules to implement and enforce provisions relating to certified master social workers (Clinical, Counseling, and Psychotherapy Services, 2022).

#### **Case Example**

Mark is a certified master social worker who is the executive director of a substance use rehabilitation program. One day the program was short-staffed, and he helped co-facilitate a group. Later that week, one of the group participants asked to speak to him, and they talked through some challenges the participant was going through, building off a discussion that happened during group. The following week the participant sought Mark out again, expressing a greater comfort level with talking with Mark than with the

assigned mental health counselor. The client then asked if it were possible to switch to meeting with Mark once a week.

### **Questions for Consideration**

Can Mark meet as a clinical provider with this participant? Why or why not?

### **Discussion**

While this is possibly flattering to Mark that the participant feels so comfortable with him, he is not qualified or licensed to provide clinical services of any kind. This is an administrative certificate for Mark to be able to hold his current position but does not grant him any authorization to provide clinical social work services.

## **Confidentiality and Privileged Communications**

Any communication between licensed or certified professionals and their patients or clients is confidential.

This privileged communication can be waived under the following conditions:

- When the licensed professional is a defendant in a civil, criminal, or disciplinary action resulting from a complaint filed by the client, the waiver is limited to the information pertinent to the action.
- When the client or clients, as this may be more than one person if a couple or family is receiving therapy, agrees to the waiver in writing.
- When a client has communicated to the licensed professional a specific threat that would cause serious bodily injury or death to an identified and accessible person, and the licensed professional makes a clinical judgment that the client has the apparent intent and ability to imminently carry out such a threat, and the licensed professional communicates the information to the potential victim. When addressing a threat as identified above, disclosure of confidential communications by a licensed professional to communicate the threat can not be the basis of any legal action, including criminal or civil liability, against the licensed professional.
- Privileged communication must be waived, and the licensed professional will disclose client communications to the extent necessary to address the threat to a

law enforcement agency. If a client has indicated to the licensed professional a specific threat that would cause serious bodily injury or death to an identified or accessible person, and the licensed professional makes a clinical judgment that the client has the intent and ability to imminently follow through with such a threat. A law enforcement agency that receives the notification of a specific threat, as identified above, must take necessary action to prevent the risk of harm. This can include but is not limited to notifying the intended victim of such a threat or initiating a risk protection order. When addressing a threat as identified above, disclosure of confidential communications by a licensed professional to communicate the threat can not be the basis of any legal action, including criminal or civil liability, against the licensed professional (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Brian is a licensed clinical social worker who provides group counseling for those with severe and persistent mental illness in an outpatient mental health clinic. During his most recent group session, one of the participants became very agitated, sharing an incident that happened between him and his partner. He terminates his rant about the situation by stating that this time she has gone too far by calling the police again, and she's going to pay for it. His level of agitation over the situation and his statements are concerning to Brian, who is facilitating the group session alone that day, so he does not have his co-facilitator to debrief the situation with and share his concerns. Brian reaches out to his direct supervisor to review the situation, but his supervisor is unavailable to meet until the next morning.

### **Questions for Consideration**

Should Brian disclose the participants' statements that were said in a private and confidential counseling group? If so, who should he disclose them to? What guidelines around confidentiality should Brian consider?

### **Discussion**

While the participant did not disclose a specific threat toward his partner, he does have a history of domestic violence, and this was a recent incident where the police had to be called. The participant does have a history of causing bodily injury to his partner, and Brian is aware of this history. Based on his history, the client does have the ability and intent to carry out his threat. He has access to his potential victim as they continue to live together. Brian should document the facts that support his decision. As there was

not a detailed threat, it is unlikely law enforcement would take Brian's report. However, Brian does have enough information and believes the participant will follow through with harming his partner to justify reaching out to the partner to warn her. Brian does have her contact information as she is the participants' listed emergency contact on his intake paperwork.

## Records

Every licensed or certified professional who provides services in the State of Florida must maintain records. The Board can set rules defining the minimum requirements for records and reports. This can include the content of records and the length of time records must be maintained. It can also address the transfer of either the records or a summary of records to a subsequent treating practitioner or other individuals with the client's or clients' written consent.

### Case Example

Linda is a licensed clinical social worker who has a small private practice. She sublets office space from another practitioner and sees her clients on opposite days and hours from the other person. Because she sublets the space, she only has a small two-drawer filing cabinet to store records and her laptop. Every few years, when it begins to fill up, she shreds client documents of those she has not seen in two years or more, making room in her file cabinet for new records and documents (Clinical, Counseling, and Psychotherapy Services, 2022).

### Questions for Consideration

Is Linda following best practices for storing and maintaining client records? What alternatives might she explore for record storage?

### Discussion

According to the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, records should be maintained for seven years after the last contact with a client. If Linda does not have enough space in her small filing cabinet to maintain client records for seven years, she could consider digitizing them and using an electronic health records service, or she could pay for off-site, HIPAA-compliant storage for her records.



## Display of License

- A professional licensed under the Florida statutes as a clinical social worker, marriage and family therapist, mental health counselor, or certified as a master social worker must prominently display an active and valid license issued by the department or a copy of the license at each location where practice occurs.
  - A licensed clinical social worker must include on all promotional materials (business cards, brochures, letterhead, advertisements, signs, etc.) the words "licensed clinical social worker" or the letters "LCSW" along with the name of the practitioner.
  - A licensed marriage and family therapist must include on all the promotional materials (business cards, brochures, letterhead, advertisements, signs, etc.) the words "licensed marriage and family therapist" or the letters "LMFT" along with the name of the practitioner.
  - A licensed mental health counselor must include on all the promotional materials (business cards, brochures, letterhead, advertisements, signs, etc.) the words "licensed mental health counselor" or the letters "LMHC" along with the name of the practitioner.
- A professional registered under the Florida statutes as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern must prominently display an active and valid registration issued by the department or a copy of the registration at each location where the practice experience occurs.
  - A registered clinical social worker intern must include on all promotional materials the intern's name and the words "registered clinical social worker intern"; a registered marriage and family therapist intern must include on all promotional materials the intern's name along with the words "registered marriage and family therapist intern"; and a registered mental health counselor intern must include on all promotional materials the intern's name and the words "registered mental health counselor intern." Promotional materials may include business cards, brochures, letterhead, advertisements, signs, etc.
- A professional provisionally licensed under the Florida statutes as a provisional clinical social worker licensee, provisional marriage and family therapist licensee,

or provisional mental health counselor licensee must prominently display an active and valid provisional license issued by the department or a copy of the provisional license at each location at which the practice of professional services occurs.

- A provisional clinical social worker licensee must include on all promotional materials the licensee's name and the words "provisional clinical social worker licensee"; a provisional marriage and family therapist licensee must include on all promotional materials the licensee's name and the words "provisional marriage and family therapist licensee"; and a provisional mental health counselor licensee must include on all promotional materials the licensee's name and the words "provisional mental health counselor licensee." Promotional materials may include business cards, brochures, letterhead, advertisements, signs, etc (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Travis is a licensed mental health counselor working in a rehab-to-work program for those in substance abuse recovery. Much of the work he does is hands-on vocational and coping skills training. For example, his client Rich has a pattern of relapse; when he becomes frustrated with a job, he walks out and immediately finds the first bar to start drinking in. Travis works half a day a week with Rich at his painting job, where he helps Rich process feelings as they arise. This has allowed Rich to identify patterns around his frustrations when he doesn't understand an instruction, which makes him feel stupid, then angry, and he wants to stop feeling that, which leads him to binge drinking. Because Travis works hands-on with his clients and he is available on call to job sites, he gives all his clients business cards with his name and work cell phone, so they can reach him immediately if needed to help process a situation. Because he passes out so many cards and he knows clients will use them in public or drop them, he only puts his first name and his work number on the card to help protect their privacy. One day there was a different supervisor on duty at Rich's job on the day Travis worked with him. When Travis left, the supervisor confronted Rich and demanded to know who his friend was that hung out for a few hours. Rich explained it was his case worker and gave him Travis's card. This caused the supervisor to be even more suspicious, accusing Rich of lying to him, calling Travis, and demanding an explanation.

### **Questions for Consideration**

What other problems can you see in the above example with Travis? How might he have handled the situation differently?

### **Discussion**

As soon as Travis saw there was a different supervisor on duty he had not met, he should have introduced himself; we will make the assumption that part of the program requirement is placement in jobs where there is open communication between the worker in recovery, the job site, and the case manager as part of the program requirements. Legally, Travis does need to have his LMHC credentials on his business card. Unless he has some form of identification issued by the recovery program, he has nothing to provide the new temporary supervisor to prove he is who he says he is, and the basic card he gives to clients makes him appear as if he is unqualified to practice.

## **Using the Title of Social Work**

A social worker is not allowed to practice clinical social work without first applying for and being issued a license or certification from the board.

It is a misdemeanor in the first degree for individuals to portray themselves to the public as social workers, either as individual professionals or through involvement with a government or private agency or organization, whether they did or did not receive compensation. The penalties for such an offense can be up to a year imprisonment and/or a fine of up to \$1000. Exceptions include (Clinical, Counseling, and Psychotherapy Services, 2022):

- The person holds at least a bachelor's or master's degree in social work from a social work program accredited by the Council on Social Work Education. OR
- Has completed the equivalent of a bachelor's or master's degree in social work from a college or university outside of the United States or Canada as determined by the Council on Social Work Education Foreign Equivalency Determination Service.

None of the above applies to:

- A professional who, prior to July 1, 2008, used the title "social worker" in their employment.

- A professional who is providing social work services in a long-term care facility, under administrative supervision, and the facility is licensed by the Agency for HealthCare Administration.

### **Case Example**

Mary is the community services coordinator at her church. She organizes the food drives for the Easter, Thanksgiving, and Christmas baskets for families in need. She works closely with the local American Red Cross when there are emergencies in their community, such as a family losing their house in a fire and coordinating donations for clothes and furniture. If there is someone in need in their church family or the general community who could use the church's support and resources, Mary is the person to contact. She frequently calls herself the church social worker, and recently the person who designs and prints the church's weekly program for the services has begun to list Mary's title as the Church Social Worker. Mary has an associate's degree from the community college in early childhood development.

### **Questions for Consideration**

Is Mary safe from legal action? Should someone report her to the board or department for using the title of social worker? What should Mary do in the above situation?

### **Discussion**

While Mary may not know she is breaking the law by calling herself a social worker, she is, according to the Florida Statutes chapter 491. While the Board could tell her to cease and desist with the use of the title she is not licensed to use, they could also charge her a \$1000 fine or a year in prison. Mary should resume using her official church position title of community services coordinator.

## **Professional Counselors Licensure Compact**

The state of Florida participates in the Professional Counselors Licensure Compact along with other states and jurisdictions that have enacted the same standards as follows.

As of September 2022, the compact was scheduled to be activated in 2023.

## Purpose

The agreement amongst the different jurisdictions has the following purpose:

- Through mutual recognition of other member state licenses, the interstate practice of licensed counseling professionals can be facilitated to improve public access to mental health services.
- Improve the member states' ability to protect the public's health and safety.
- Facilitate the cooperation of member states in regulating the practice of licensed professional counselors across multiple states.
- Offer support to spouses who are licensed professional counselors of relocating active-duty military personnel.
- Encourage the exchange of information regarding licensure, investigations, adverse actions, and disciplinary history of licensed professional counselors between member states.
- Technology is encouraged to facilitate telehealth services and increase access to professional counseling services.
- Enhance consistency of professional counseling licensure requirements throughout member states to promote public safety and public health benefits.
- Allow member states the authority to hold licensed professional counselors accountable to follow all state practice laws in the state where the client is located during the time counseling service are provided through the mutual recognition of member state licenses,
- Eliminate the requirement for licensed professional counselors to hold licenses in multiple states and offer opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements (Clinical, Counseling, and Psychotherapy Services, 2022).

## Definitions

The following terms are found throughout the compact agreement:

**Active duty military:** full-time duty status in the active uniformed service of the United States, including, but not limited to, members of the National Guard and Reserve on active duty orders.

**Adverse action:** any administrative, civil, or criminal action authorized by a state's laws that is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual's license or privilege to practice, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, issuance of a cease and desist action, or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice.

**Alternative program:** a nondisciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.

**Continuing education:** a requirement to participate in or complete educational and professional activities relevant to the licensee's practice or area of work as a condition of license renewal.

**Counseling Compact Commission:** the national administrative body whose membership consists of all states that have enacted the compact may also be addressed simply as "commission."

**Current significant investigative information:**

- Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
- Investigative information indicates that the licensed professional counselor represents an immediate threat to public health and safety, regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.

**Data system:** a repository of information about licensees, including, but not limited to, information relating to continuing education, examinations, licensure statuses, investigations, the privilege to practice, and adverse actions.

**Encumbered license:** a license in which an adverse action restricts the licensee's practice of licensed professional counseling, and said adverse action had been reported to the National Practitioner Data Bank.

**Encumbrance:** revocation or suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.

**Executive committee:** a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

**Home state:** the member state that is the licensee's primary state of residence.

**Impaired practitioner:** an individual with a condition that may impair his or her ability to safely practice as a licensed professional counselor without intervention. Such impairment may include but is not limited to alcohol or drug dependence, mental health conditions, and neurological or physical conditions.

**Investigative information:** information, records, or documents received or generated by a professional counseling licensing board according to an investigation.

**Jurisprudence requirement:** the assessment of an individual's knowledge of the laws and rules governing professional counseling practice in a state, which may be a requirement in some member states.

**Licensed professional counselor:** a counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.

**Licensee:** an individual who currently holds an authorization from the state to practice as a licensed professional counselor.

**Licensing board:** the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.

**Member state:** a state that has enacted the compact.

**Privilege to practice:** a legal authorization, which is equivalent to a license, authorizing the practice of professional counseling in a remote state.

**Professional counseling:** a licensed professional counselor's assessment, diagnosis, and treatment of behavioral health conditions.

**Remote state:** a member state, other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.

**Rule:** a regulation adopted by the commission with the force of law.



**Single state license:** a licensed professional counselor license issued by a member state which authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

**State:** any state, commonwealth, district, or territory of the United States of America which regulates the practice of professional counseling.

**Telehealth:** the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose, and treat behavioral health conditions.

**Unencumbered license:** a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling (Clinical, Counseling, and Psychotherapy Services, 2022).

## State Participation

To be recognized as a member state that participates in the compact, the state must currently require the following:

- License and regulate professional counselors.
- Licensed professional counselors have passed a commission-approved and nationally recognized exam.
- Licensed professional counselors have completed 60 semester-hour (90 quarter-hours) master's degree in counseling or 60 semester hours (90 quarter hours) of graduate coursework, including the following course areas:
  - Professional counseling orientation and ethical practice.
  - Social and cultural diversity.
  - Human growth and development.
  - Career development.
  - Counseling and helping relationships.
  - Group counseling and group work.
  - Diagnosis, assessment, testing, and treatment.
  - Research and program evaluation.

- Other areas as approved by the commission.
- Licensed professional counselors have completed a supervised postgraduate professional experience as defined by the commission.
- Have an established system for receiving complaints and investigating licensed professionals.

As part of the compact, member states are expected to do the following:

- Full participation in the commission's data system, including using the commission's unique identifier as outlined in the rules adopted by the commission.
- Comply with the terms of the compact and rules adopted by the commission, including notifying the commission of any adverse action taken against a licensee or the availability of investigative information.
- Maintain procedures for evaluating applicants' criminal history records before granting an initial privilege to practice. These procedures must include fingerprints or other biometric-based information by the applicant in order to obtain an applicant's criminal history record information from the Federal Bureau of Investigation and from the member state's agency responsible for retaining their state's criminal records.
  - Each member state will implement a criminal history background check requirement. By receiving the results of the Federal Bureau of Investigation record search, the member state will use the results to support licensure decision-making.
  - Communication among member states or between a member state and the commission in regard to the compact verification of eligibility for licensure can not include information obtained from the Federal Bureau of Investigation regarding a federal criminal records background check made by a member state.
- Comply with the rules set forth by the commission.
- Require an applicant to obtain and retain a license in the home state, maintain the home state's qualifications for licensure and renewal of licensure, and follow all other applicable state laws.

- Authorizing the privilege to practice to a licensed professional counselor issued a valid unencumbered license in another member state as outlined in the compact and rules adopted by the commission.
- Arrange for the state's commissioner to attend commission meetings.

Professionals not residing in a member state will continue to be allowed to apply for a member state's single-state license as stipulated under the laws of each member state. However, the single-state license issued to these individuals is not recognized as authorizing a privilege to practice professional counseling under the compact in any other member state.

Nothing in this compact affects the established requirements by a member state for the issuing of its single-state license.

A professional counselor license issued by a home state to a resident professional counselor of that state must be acknowledged by each member state as granting the licensed professional counselor a privilege to practice professional counseling in each member state (Clinical, Counseling, and Psychotherapy Services, 2022).

## **Privilege to Practice**

To qualify for the privilege to practice under the terms and provisions of the Professional Counselors Licensure Compact, professional licensees must meet ALL of the following (Clinical, Counseling, and Psychotherapy Services, 2022):

- Hold a valid and active license in their home state, which is also a recognized compact member state.
- Possess a valid United States social security number or national provider identifier.
- Be eligible for a privilege to practice in any member state.
- Have no encumbrance or restriction against any license or privilege to practice within the preceding two years.
- Alert the commission that the licensee seeks the privilege to practice within a remote state.
- Meet the continuing education requirements established by their home state.

- Meet any legal requirements established by the remote state where the licensee seeks a privilege to practice.
- Report to the commission within 30 days any adverse action, encumbrance, or restriction on a license taken by any nonmember state.

The licensee's privilege to practice is valid until the home state license expiration date. To renew the privilege to practice in a remote state, the licensee must continue to meet the criteria specified in the above section.

For purposes of the compact, the professional counseling practice takes place in the state where the client is located at the time of the counseling session. The compact does not impact the regulatory authority of states to protect public health and safety through their own system of state licensure.

A licensee offering professional counseling services in a remote state under the privilege to practice compact must follow the remote state's laws and regulations.

A licensee offering professional counseling services in a remote state is liable to that state's regulatory authority. A remote state has the authority to remove a licensee's privilege to practice in the remote state for a defined period of time, impose fines, or take any other action they deem necessary to protect the health and safety of its citizens following due process and the state's laws. In addition, the licensee may be disqualified from a privilege to practice in any member state until the defined time for removal has passed and all fines are paid.

If a licensee's home state license is encumbered, then the licensee loses the privilege to practice in any remote state until the following conditions are met:

- The home state license is no longer encumbered.

AND

- The licensee has no encumbrance or restriction against any license or privilege to practice within the preceding two years.

Once the licensee's home state encumbered license is reinstated to unencumbered and in good standing, the licensee may acquire a privilege to practice in any remote state if the requirements of the first paragraph of the Privilege to Practice Section are met.

If a licensee's privilege to practice is revoked in any remote state, the licensee can lose the privilege to practice in all other remote states until the following conditions are met:

- The defined period of time for which the privilege to practice was revoked has been met.

AND

- The licensee has paid all fines imposed.

AND

- The licensee has no encumbrance or restriction against any license or privilege to practice within the preceding two years.

Once the above three requirements have been met, the licensee may obtain a privilege to practice in a remote state if the requirements of the first paragraph of the Privilege to Practice Section are met (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Heather is a licensed clinical social worker in her home state of Florida and has a privilege to practice with the compact. She has a client she sees who lives in Georgia (also a compact member state), and they meet weekly for telehealth sessions. As part of being a licensed professional counselor through the compact, Heather has agreed to abide by the laws and regulations of the compact. As her client is in Georgia, she is providing services in Georgia even though Heather is physically located in Florida.

### **Questions for Consideration**

If Heather is uninformed of Georgia laws but follows Florida laws where her home state license is located, is she legally protected by the compact?

### **Discussion**

Heather is legally obligated under her agreement of the privilege to practice compact to follow the laws and regulations of the state where she is practicing. While the privilege to practice allows Heather and other licensees to provide services in any member state, it is the practitioner's responsibility to know and follow the regulations of each state where services are provided. Should Heather break any practice law or rule in Georgia regarding providing mental health services, Georgia can terminate her privilege to practice in that state. They are also required as a compact member state to report Heather's violation to the commission and other member states. Other member states can then take action to prevent Heather from practicing in their state, or the commission could revoke her privilege to practice through the compact.

## Obtaining a New Home State License Based on a Privilege to Practice

- A licensed professional counselor may only hold a home state license in one member state at a time, which allows for a privilege to practice in other member states.
- Should a licensed professional counselor change primary residence state by moving from one member state to another, the licensed professional counselor must apply for a new home state license based on a privilege to practice and notify the previous and new home state as outlined by the commissions' applicable rules.
- Once an application is received for acquiring a new home state license based on a privilege to practice, it is the responsibility of the new home state to verify that the licensed professional counselor meets the outlined criteria in the "Privilege to Practice" section through the data system. The new home state is not required to obtain primary source verification for information they obtain from the data system. Except for the following:
  - A Federal Bureau of Investigation fingerprint-based criminal background check, if it was not previously done or has not been updated according to applicable rules adopted by the commission following the federal statutes authorizing criminal background checks.
  - Any other criminal background check that is required by the new home state; and
  - Proof of completing any other legal requirements of the new home state.
- The previous home state will convert the previous license into a privilege to practice upon the new home state, activating the new home state license following applicable rules adopted by the commission.
- Regardless of any other provision of the compact, if the licensed professional counselor does not meet the "Privilege to Practice" criteria, the new home state may apply its own requirements for issuing a new single-state license.
- Should a licensed professional counselor change residence from the primary member state of residence to a nonmember state or from a nonmember state to a member state, the new state's criteria apply for issuing a single state license in the new state.

- The compact does not impact a licensee's ability to hold a single-state license in multiple states. However, a licensee may have only one home state license for the compact.
- The compact does not impact the requirements established by a member state for issuing a single-state license (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Kim is a licensed social worker in New Hampshire (a member state) and has a privilege to practice granted through the compact. Kim is moving to North Carolina (a member state). As her license in New Hampshire does not expire for another two years, and all of Kim's clients are either in New Hampshire, North Carolina, or other compact member states, she plans to continue to use her privilege to practice through the compact and wait to renew her license when it expires.

### **Questions for Consideration**

Will this plan allow Kim to comply with the compact's expectations on licensure? Are there any steps Kim needs to take to stay in compliance with the compact's expectations of professional counselor licensees?

### **Discussion**

Despite Kim moving from one member state to another, she must change her home license to the state she resides in. Therefore Kim needs to be licensed in North Carolina and declare that as her home state with the compact. She also needs to inform New Hampshire (where she can maintain her single-state license for the next two years), but New Hampshire will now grant her a privilege to practice through the compact and recognize North Carolina as her home state.

### **Case Example**

Matthew is a licensed marriage and family therapist in Florida (a member state) and holds a privilege to practice through the compact. Matthew is moving to New York (not a member state). Matthew has a job at an outpatient mental health clinic in New York he is taking, but he has a few clients he still plans to maintain in Florida and see via telehealth appointments.

### **Questions for Consideration**



Will Matthew be able to maintain his privilege to practice? What does Matthew need to do so he can see clients in both New York and Florida?

### **Discussion**

Matthew will not be able to maintain his privilege to practice through the compact as he is moving to a state that is not a member of the compact. Should New York State join the compact or Matthew move to a member state, he will be able to apply for a privilege to practice again. As Matthew will be living and working in New York, he will be required to obtain a New York State license to practice marriage and family therapy at his new job. Matthew will also need to maintain a single-state license in Florida to be able to see the clients he is maintaining there. If Matthew had been seeing clients in other member states, he would need to apply for single-state licensure in those states. (ex. Matthew had seen clients in Georgia and North Carolina through the compact's privilege to practice. Now that he is in New York, he would need to apply to be licensed in Georgia and North Carolina separately if he wished to continue working with his clients residing in those states).

### **Active Duty Military Personnel and Their Spouses**

Active duty military personnel, or their spouses, will select a home state where the professional counselor has a current license in good standing. The professional may retain the home state license designation during the service member's active duty. After designating a home state, the professional may change his or her home state only by completing an application for licensure in a new state or through the process outlined in the Obtaining a New Home State License Based on a Privilege to Practice section (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Kris is a licensed clinical social worker in Florida and has a privilege to practice through the compact. Her husband is enlisted with the Navy and is stationed in Pensacola. Due to his military involvement, they are moving to San Diego, California (not a member state). They do not know how long he will be stationed there or what state they will move to next. He has eight more years in the Navy before he plans to retire. They expect they will move one to two more times before he retires.

### **Questions for Consideration**

What does Kris need to do to maintain her privilege to practice and maintain her license status? Will she lose her privilege to practice through the compact by moving to California?

### **Discussion**

As Kris's husband is an active duty military personnel, there are no steps she needs to take. She can continue to maintain and practice under her Florida license. She can also maintain her privilege to practice as long as she maintains an active license in Florida. Florida can remain her home state until her husband is no longer on active duty military and/or she chooses to designate another state as her home state. If the new home state is not a member of the compact, she will forfeit her privilege to practice through the compact.

### **Compact Privilege to Practice Telehealth**

Member states will recognize the right of a licensed professional counselor to practice mental health counseling in any member state through telehealth under a privilege to practice as outlined in the compact and rules adopted by the commission. Licensed professional counselors will be licensed by a home state per the State Participation section (see above) and adhere to rules adopted by the commission.

A licensed professional counselor providing mental health services in a remote state through telehealth under the privilege to practice must follow the laws and rules of the remote state where their client is located (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Case Example**

Daniel is a licensed mental health counselor in Florida and has a privilege to practice through the compact. He is excited to offer telehealth services to clients across numerous states. He sets up his online profile on several online directories and begins accepting clients. Daniel is happy he can build his private practice out of his home and does not have the expense of renting an office space.

### **Questions for Consideration**

What potential complications do you see in Daniel's plan?

### **Discussion**

It is unclear if Daniel is able to competently offer tele-mental health. He needs to be knowledgeable in all states where he is seeing clients, not only on their rules and regulations for mental health but also their expectations around telehealth. It is unclear if he is using video programs that are HIPAA compliant. Daniel is also required to maintain confidentiality just as he would should he be working out of an office. How is he maintaining confidentiality for his clients when he is working from home must be considered (such as family members or roommates walking into the room he is working from or neighbors overhearing sessions if windows are open). Daniel also needs to maintain his client's safety and should be soliciting a location address at the start of each session. Should there be any threats of harm, he has a location to contact local authorities. He is also responsible for knowing what local authorities he would contact in case of an emergency for his telehealth clients.

## **Adverse Actions**

In addition to the powers conferred by state law and following existing state due process law, a remote state has the authority to do any of the following (Clinical, Counseling, and Psychotherapy Services, 2022):

- A member state may take adverse action against a licensed professional counselor's privilege to practice.
- A member state may issue subpoenas to hearings and investigations requiring the attendance and testimony of witnesses or the presentation of evidence. Licensing boards in member states may issue subpoenas for the attendance and testimony of witnesses or the presentation of evidence from another member state. The subpoenas must be enforced by a court of competent jurisdiction within the member state where the witness or evidence is being requested from, the practices and procedures of the applicable court that has issued the subpoenas, and where the pending procedures will take place. The authority that has issued the subpoenas will be responsible for paying witness fees, travel expenses, mileage, and other fees expected of the service statutes of the member state where the witness and evidence are located.

The home state is the only one with the power to take action against a licensed professional counselor's home state-issued license.

When adverse action is necessitated, the home state will give the same priority and response to the alleged conduct report received from a member state as it would if the

alleged conduct had occurred within the home state. In addition, the home state will apply its state laws and regulations to determine the appropriate action in such cases.

The home state is obligated to complete any pending investigations of any licensed professional counselors who change their primary state of residence during an ongoing investigation. It is on the home state to take appropriate action and promptly report the investigation's conclusions to the data system administrator for the compact. The data system administrator will promptly notify the new home state of any adverse actions taken by the original home state.

A member state may recover the costs of investigations and dispositions of any case that results in adverse action taken against the licensed professional counselor if authorized by state law.

A member state may take legal action against a licensed professional counselor based on the factual findings of a remote state. However, the member state must first follow its statutory procedures for taking adverse action.

While member states are granted the authority by their professional counseling practice acts and/or state laws, they may also participate in joint investigations of licensees with other member states. Member states will share any investigative, litigation, or compliance materials in prosecuting any joint or individual investigation initiated under the compact.

When the home state takes adverse action against a professional counselor's license, the licensed professional counselor's privilege to practice in all member states is automatically suspended until all encumbrances have been removed from the home state license. In addition, all home state disciplinary orders that impose adverse action against the license of a professional counselor will also include a statement that the licensed professional counselor's privilege to practice is suspended in all member states while the order is in effect.

When a member state takes adverse action against a licensed professional counselor, it must immediately notify the administrator of the data system of the compact. Likewise, the administrator will promptly notify the licensee's home state should any adverse actions be taken by remote states.

Nothing in the compact overrides a member state's decision to allow a licensed professional counselor to participate in an alternative program instead of taking disciplinary action (Clinical, Counseling, and Psychotherapy Services, 2022).

## Case Example

Ken is a licensed marriage and family therapist in Florida with the privilege to practice through the compact. Ken has a client he meets with who lives in Georgia, and he is seeing her as part of her requirements to maintain custody of her two children and not have them placed in state care. The focus of their sessions is on the client's struggle with depression and how it negatively impacts her ability to parent her children. The client has made progress in getting out of bed in the morning, helping the children get ready for school, and making regular, balanced meals for them. However, she continues to struggle with daily household chores and maintenance, such as cleaning the bathroom and doing the dishes. In their session this morning, the client was in a panic because the case manager had called just before her session with Ken to inform her she would be visiting later today. The client shared with Ken that she was terrified her children would be taken away as her house was a mess and she was out of basic cleaning supplies. She was not due to receive child support or public assistance funds til the end of the week, and she had no money to buy the cleaning supplies she needed. She was hysterical during their session and feared that the case worker would not understand and would not see the good progress she had made thus far. When Ken asked her to explore solutions to her situation with him, her main option was that if she had \$20, she would be able to get what she needed to have the dishes washed, the bathroom cleaned, and the floor mopped before the case worker arrived. If \$20 would make such a difference to her, help the case worker see the huge progress the client had made, and reduce the client's distress, Ken had to help. He offered to Venmo the client \$20 if she felt this would alleviate her distress over the upcoming visit. The client was so relieved that he would do that for her. When the case worker arrived, she was pleasantly surprised at the growth the client had made over the last two months and complimented her on her progress. The client proudly announced she really liked her therapist, and he was helping her a lot, even financially, when she could not get by at the end of the month. This did not sound right to the case worker, and she became concerned about the possible lack of boundaries with the therapist or the potential for additional improprieties. She files a complaint against Ken.

## Questions for Consideration

Is Ken liable for any violations? Who should the case worker file the complaint with? As Ken is providing services under a privilege to practice, who investigates, and who needs to be made aware of the investigation and any disciplinary action taken?

## Discussion

The caseworker would report Ken to the state of Georgia as that is where the client is located and where Ken holds a privilege to practice. The state of Georgia would be required to notify the compact of its investigation. The compact will alert member states and Ken's home state of Florida of the pending investigation. The state of Georgia could impose a fine against Ken to help cover the costs of the investigation. They could remove him from providing services in Georgia (it is up to the compact, other member states, and Florida if they would also proceed with adverse actions following the outcome of Georgia's investigation). Georgia can also decide against any disciplinary action but instead have Ken participate in an alternative program, such as requiring additional training on ethics and boundaries and having no additional complaints over a period of time.

## **Establishment of Compact Counseling Commission**

### **Commission Created**

The compact member states have created and established a joint public agency known as the Counseling Compact Commission.

- The commission is an agency of the compact states.
- Judicial proceedings by or against the commission must be brought to a court of competent jurisdiction where the commission's main office is located. Should the commission adopt or consent to participate in alternative dispute resolution proceedings, it may waive venue and jurisdictional defenses.
- Nothing in the compact may be construed as a waiver of sovereign immunity (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Membership**

Each member state's licensing board will appoint one voting delegate to the commission. The commission will establish a term of office and term limits for delegates.

Delegates must be either:

- A licensed professional counselor or public member who is a current member of the licensing board at the time their appointment is made, OR
- A licensing board administrator.

A delegate may be suspended or removed from office as allowed by the state law from which the delegate is appointed.

Any vacancy occurring on the commission must be filled within 60 days by the member state licensing board.

Each delegate is entitled to one vote concerning the adoption of rules, the creation of bylaws, or the participation in the business and affairs of the commission.

A delegate will vote in person or by other means as provided in the bylaws. In addition, the bylaws may provide for delegates' participation in meetings by telephone or other means of communication (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Meetings of the Commission**

The commission will meet at least once during each calendar year. Additional meetings will be held as outlined in the bylaws.

All meetings must be open to the public. In addition, public notice of meetings must be given as stated and required under the rulemaking section (see below).

The commission, the executive committee, or other commission committees may meet in a closed, nonpublic meeting if the commission or committees of the commission must discuss any of the following:

- A member state's noncompliance with its obligations under the compact.
- The employment, compensation, discipline, practices, procedures, or other matters related to specific employees, including the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations for purchasing, leasing, or selling goods, services, or real estate.
- Any person accused of a crime or who may be formally censured.
- Trade secrets that may be disclosed or commercial or financial information that is privileged or confidential.
- Information of a personal nature that is disclosed, particularly if disclosure would constitute an unwarranted invasion of personal privacy.

- Investigative records compiled for law enforcement purposes.
- Information related to investigative reports prepared by or on behalf of the commission or committee charged with the responsibility of investigation or determination of compliance issues according to the compact.
- Matters specifically exempted from disclosure by a member state or federal law.
  - Before closing a meeting or portion of a meeting under this category, the commission's legal counsel must validate that the meeting may be closed and reference each relevant exempting provision.
  - The commission will keep minutes that fully and clearly describe all matters discussed in a meeting and provide a complete and accurate summary of actions taken and the reasons. A description of the expressed views should be included. All documents reviewed as evidence for action must be listed in the minutes. Closed meeting minutes and documents must remain sealed and may only be released by a majority vote of the commission or as ordered by a court of competent jurisdiction (Clinical, Counseling, and Psychotherapy Services, 2022).

## **Powers**

The commission may undertake any of the following:

- Establish the fiscal year of the commission.
- Establish the commission's bylaws.
- Maintain the commission's financial records as required by the bylaws.
- Meet and take action as required by the compact and bylaws.
- Adopt rules that are binding as expected and provided for in the compact.
- Initiate and prosecute legal proceedings or actions on behalf of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law is not impacted.
- Purchase and maintain insurance and bonds.
- Borrow, accept, or contract for personnel services, including, but not limited to, employees of a member state.



- Hire employees and elect or appoint officers. Set compensation, define duties, and grant appropriate authority to employees and officers to carry out the compact's purposes. The commission will establish personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
- Accept, receive, utilize, and dispose of appropriate donations and grants of money, equipment, supplies, materials, and services. At the same time, ensuring that the commission avoids any appearance of impropriety or conflict of interest at all times.
- Purchase, lease, accept appropriate gifts or donations, or otherwise own, hold, improve, or use any real, personal, or mixed property. At all times, ensure that the commission avoids any appearance of impropriety or conflict of interest.
- Sell, mortgage, convey, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.
- Establish a budget and make expenditures.
- Borrow money.
- Appoint committees, including standing committees consisting of commission members, state regulators, state legislators or their representatives, consumer representatives, and other interested parties as may be designated in the compact and bylaws.
- Provide information, receive information, and cooperate with law enforcement agencies.
- Establish and elect an executive committee.
- Perform any other functions that may be necessary or appropriate to achieve and maintain the compact's purposes and is consistent with the state regulation of professional counseling licensure and practice (Clinical, Counseling, and Psychotherapy Services, 2022).

## **Executive Committee**

The executive committee can take action on behalf of the commission as per the terms of the compact. The executive committee consists of up to 11 members, broken down as follows:

- From the current membership of the commission, seven voting members are elected by the commission.
- From the four recognized national professional counselor organizations, up to four ex officio, nonvoting members. The ex officio members are elected by their respective professional organizations.

The commission can remove any executive committee member as provided by the bylaws.

The executive committee will meet at least once annually.

The executive committee will be charged with the following responsibilities:

- Make recommendations for any changes to the rules, bylaws, or compact legislation to the commission.
- Ensure compact administration services are provided to the member states appropriately, contractually, or otherwise.
- Prepare and recommend the budget.
- Maintain the commission's financial records.
- Monitor member states compact compliance and produces compliance reports to the commission.
- Establish additional committees as necessary.
- Perform any other duties as assigned and appropriate for in the rules or bylaws (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Financing of the Commission**

The commission will pay, or provide for the payment of, the expected expenses of its establishment, organization, and ongoing activities.

The commission can accept appropriate revenue sources, donations, or grants of money, equipment, supplies, materials, or services.

The commission can not acquire obligations of any kind before securing adequate funds to meet the financial obligation. In addition, the commission can not pledge the credit of any of the member states unless explicitly given the authority by the member state.

The commission will maintain accurate accounts of all receipts and disbursements. Therefore, the commission's receipts and disbursements are subject to its bylaws' audit and accounting procedures. In addition, all receipts and disbursements of funds handled by the commission must be audited annually by a certified or licensed public accountant. The audit report must be included in the commission's annual report (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Qualified Immunity, Defense, and Indemnification**

The members, executive director, officers, employees, and commission representatives are immune from suit and liability. This includes both personally or in their official capacity. It covers any claim for damage or loss of property, personal injury, or other civil liability caused by any actual or alleged act, error, an omission that occurred or reasonable basis to believe in having occurred by any individuals against whom the claims are made, during their employment, duties, or responsibilities to the commission. This immunity may not be construed to protect a person from suit or liability for any damage, loss, injury, or liability caused by that person's intentional, willful, or wanton misconduct.

The commission will defend any member, executive director, officer, employee, or commission representative in any civil action seeking to establish liability emerging out of any alleged or actual act, error, an omission that occurred, or reasonable basis to believe in having occurred by the individuals against whom the claims are made, during their employment, duties, or responsibilities to the commission. Provided that the alleged or actual act, error, or omission was not a result of that person's intentional, willful or wanton misconduct, such defense will occur. This does not prohibit the person from retaining his or her own counsel.

The commission will indemnify and hold harmless any member, executive director, officer, employee, or commission representative for the amount of any judgment or settlement enforced against that person arising out of any alleged or actual act, error, an omission that occurred, or reasonable basis to believed to have occurred by the individuals against whom the claims are made, during their employment, duties, or responsibilities to the commission. Such protection will occur provided that the alleged

or actual act, error, or omission was not a result of the person's intentional, willful or wanton misconduct. (Clinical, Counseling, and Psychotherapy Services, 2022).

## Data System

- The commission will provide for developing, operating, and maintaining a coordinated database and reporting system. The system will include licensure, adverse action, and investigative information on all licensed professional counselors in member states.
- Regardless of any other provision of state law to the contrary, a member state will submit consistent data information to the data system on all licensees that the compact applies to, as the rules of the commission require, including all of the following:
  - Identifying information.
  - Licensure data.
  - Adverse actions against a license or privilege to practice.
  - Nonconfidential information related to alternative program participation.
  - Any denial of a licensure application and the reason for such denial.
  - Current significant investigative information.
  - Other information that could aid the compact administration, as determined by the rules of the commission.
- Investigative information about a licensee in any member state may only be available to other member states.
- The commission will immediately notify all member states of any adverse action against a licensee or an individual applying for a license. Adverse action information about a licensee in any member state must be made available to all other member states.
- Member states reporting information to the data system can designate information that can not be shared publicly without the express permission of the reporting state.

- Any information submitted to the data system that is later mandated to be expunged by the member state's laws reporting the information must be removed from the data system (Clinical, Counseling, and Psychotherapy Services, 2022).

## Rulemaking

- The commission will enact reasonable rules to effectively and efficiently achieve the compact's purposes. Should the commission exercise its rulemaking authority in a manner that is beyond the scope of the compact's purposes or the powers granted to it. The rule is invalid and has no effect or force.
- The commission will exercise its rulemaking powers according to the criteria outlined in this section on "Rulemaking" and the rules enacted. Rules and amendments become permanent as of the date identified in each rule or amendment.
- Should a majority of the legislatures of the member states reject a rule by an enactment of a statute or resolution in the same manner used to enact the compact within four years after the date of enactment of the rule, said rule does not have further force and effect in any member state.
- Rules or amendments must be enacted at a regular or special commission meeting.
- The commission will file a notice of proposed rulemaking before the enactment of a final rule by the commission, at least 30 days before the meeting, where the rule will be reviewed and voted on. The notice will be filed:
  - On the commission's website or other publicly accessible platforms; and
  - On each member state's professional counseling licensing board website, on other publicly accessible platforms, or in the publication in which each state would usually publish proposed rules.
- The notice of proposed rulemaking must include the following:
  - The scheduled date, time, and location of the meeting in which the rule will be reviewed and voted on;

- The full text of the proposed rule or amendment and the reason for the proposed rule or amendment;
  - A request for comment on the proposed rule from any interested person; and
  - How an interested person may submit notice to the commission of their intention to attend the public hearing and any written comments.
- Before enacting a proposed rule, the commission must allow people to submit written data, facts, opinions, and arguments and make them available to the public.
  - The commission will allow an opportunity for a public hearing before it enacts a rule or an amendment if a hearing is requested by:
    - At least 25 people who have submitted comments independently of each other;
    - A state or federal governmental subdivision or agency;
    - An association with at least 25 members.
  - Should a hearing be held on a proposed rule or amendment, the commission must publish the date, time, and place of the scheduled public hearing. If the hearing is held virtually, the commission must publish the mechanism for access to the electronic hearing.
    - Any person desiring to comment at a hearing must notify the commission's executive director, or the commission's designated member, in writing and at least five business days before the scheduled date of the hearing of the desire to appear and testify at the hearing.
    - Hearings must be conducted to allow any person who desires to comment a fair and reasonable opportunity to comment verbally or in writing.
    - All hearings must be recorded, and a copy of the recording must be made available on request.
    - This section may not be implied that it is required to have a separate hearing on each rule. Rules can be grouped together at hearings required by this section for the convenience of the commission.

- Should the commission not receive any written notices of intent to attend the public hearing from interested parties, the commission may proceed to enact the proposed rule without a public hearing.
- Following the scheduled hearing date, or if the hearing was not held by the close of business on the scheduled hearing date, the commission would consider all written and oral comments received.
- The commission, by a majority vote of all members, will take final action on the proposed rule and will determine the effective date of the rule based on the rulemaking record and the full text of the rule.
- Upon determining an emergency exists, the commission may consider and enact an emergency rule without prior notice, the opportunity for comment, or a hearing. As soon as reasonably possible, but no later than 90 days after the rule's enactment, the usual rulemaking procedures outlined in the compact and this section are retroactively applied to the rule. An emergency rule is one that must be enacted immediately in order to:
  - Address an imminent threat to public health, safety, or welfare;
  - Stop or avoid a loss of commission or member state funds;
  - Meet a deadline for the enactment of an administrative rule established by federal law or rule; or
  - Protect public health and safety.
- The commission or an authorized commission committee may make revisions to a previously enacted rule or amendment to correct typographical errors, format errors, consistency errors, or grammatical errors. Public notice of any revision made on the commission's website must be posted. Any person can challenge revisions for 30 days after posting. A revision may only be challenged on the grounds that the revision leads to a material change to a rule. Challenges are to be made in writing and submitted to the commission chair before the notice period's end. The revision takes effect without any other action if a challenge is not made. If a revision is challenged, the revision can not take effect without the commission's approval (Clinical, Counseling, and Psychotherapy Services, 2022).

## **Oversight; Default, Technical Assistance, and Termination; Dispute Resolution; Enforcement**

### **Oversight**

- Each member state's executive, legislative, and judicial branches of state government will enforce the compact and take any necessary and appropriate actions to accomplish and support the compact's purposes and intent. The compact and the rules enacted under it have standing as statutory law.
- All courts will take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state about the subject matter of the compact, which can impact the responsibilities, powers, or actions of the commission.
- The commission has the right to receive service of process in any judicial or administrative proceeding specified in the previous paragraph. The commission is allowed to intervene in such a proceeding for any purpose. Failure to follow the service of process to the commission renders a judgment or an order void as to the commission, the compact, or enacted rules (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Default, Technical Assistance, and Termination**

Should the commission determine a member state has defaulted in its performance, obligations, or responsibilities under the compact or its enacted rules, the commission is required to:

- Provide the defaulting state written notice and the other member states, the nature of the default, the proposed means of correcting the default, and any other action to be taken by the commission.

AND

- Provide corrective training and technical assistance regarding the default.
  - If a member state in default fails to correct the default, the defaulting state may be terminated from the compact should a majority of the member states have an affirmative vote. All rights, privileges, and benefits bestowed by the compact are concluded on the effective termination date.



A default correction does not relieve the offending state of obligations or liabilities acquired during the default period.

- Terminating membership in the compact may only be enforced after all other means of securing compliance have been exhausted. The commission will submit a notice of intent to suspend or terminate a defaulting member state to that state's governor, the majority and minority leaders of that state's legislature, and each member state.
- A terminated member state is responsible for all assessments, obligations, and liabilities sustained through the effective termination date, including obligations that extend beyond the effective termination date.
- The commission will not be responsible for any costs related to a member state deemed in default or terminated from the compact unless agreed upon in writing between the defaulting member state and the commission.
- The defaulting member state may appeal the commission's action through a petition to the United States District Court for the District of Columbia or the federal district where the commission's main offices are located. The successful party must be awarded all litigation costs, including reasonable attorney fees (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Dispute Resolution**

- At the request of a member state, the commission will attempt to resolve disputes related to the compact that arise between member states and between member and nonmember states.
- The commission will enact rules providing for both mediation and binding dispute resolution for disputes as appropriate (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Enforcement**

- The commission will enforce the provisions and rules of the compact within reason of its powers, responsibilities, and jurisdictions.
- With a majority vote, the commission can take legal action in the United States District Court for the District of Columbia or the federal district where the commission's main offices are located against a member state in default to

enforce compact compliance and its enacted rules and bylaws. The relief sought may include both an injunction and any damages. If judicial enforcement is necessary, the successful party must be awarded all costs of such litigation, including reasonable attorney fees.

- The remedies under this section are not sole remedies to the commission. The commission may pursue any other resolutions available under federal or state law (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Date of Implementation of the Counseling Compact Commission and Associated Rules, Withdrawal, and Amendment**

- The compact is effective on the date the compact is enacted into law in the 10th member state. The provisions that become effective are limited to the powers granted to the commission relating to assembly and the adoption of rules. The commission will meet and exercise rulemaking powers necessary for implementing and administering the compact.
- Any state that joins the compact following the commission's initial enactment of the rules is held to the rules as they were set on the day the compact becomes law in that state. Any rule previously adopted by the commission has the full force and effect of the law on the date the compact becomes law in the member state.
- Any member state can exit from the compact by adopting a statute repealing the compact.
  - A member state's exit does not take full effect until six months after the enactment of the repealing statute.
  - Exiting does not impact the continuing requirement of the exiting state's professional counseling licensing board to maintain the investigative and adverse action reporting requirements of the compact before the effective date of withdrawal.
  - The compact will not invalidate or prevent any professional counseling licensure agreement or other cooperative arrangements between a member state and a nonmember state so long as it does not conflict with the compact.

- The member states may amend the compact. An amendment to the compact does not become effective and legal in any member state until it is adopted into the laws of all the member states (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Binding Effect of Compact and Other Laws**

- A person providing professional counseling services in a remote state under the compact's privilege to practice will follow the remote state's laws and regulations, including the scope of practice.
- The compact does not impede the enforcement of any other law of a member state that is not inconsistent with the compact.
- Any laws in a member state that conflict with the compact are superseded to the extent of the conflict.
- Any legal actions by the commission, including all rules and bylaws properly adopted, are legally binding to the member states.
- All allowed agreements between the commission and the member states are legally binding following their terms.
- Should any provision of the compact exceed the constitutional limits imposed on the legislature of any member state, the provision will be ineffective to the extent of the conflict with the constitutional provision in question in that member state (Clinical, Counseling, and Psychotherapy Services, 2022).

### **Construction and Severability**

The compact may be liberally interpreted to accomplish its purposes. The compact's provisions can be terminated should any phrase, clause, sentence, or provision of the compact be declared contrary to the constitution of any member state, that of the United States, or any government, agency, person, or circumstance found invalid. The validity of the rest of the compact and its application to any government, agency, person, or circumstance is not affected by that. Should the compact be held contrary to the constitution of any member state, the compact remains in full force and effect for the rest of the member states and in full force and effect for the member state affected as to all separated matters (Clinical, Counseling, and Psychotherapy Services, 2022).

## Professional Counselors Licensure Compact: Public Records and Meetings Exemptions

- Counselors' personal identifying information, other than their name, licensure status, or licensure number, obtained from the data system and maintained by the Department of Health or the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling is exempt from the Florida Statutes requiring public records to be released or inspected upon request of a member of the public (for additional details see chapter 119.07) unless the state that originally reported the information to the data system authorizes the disclosure of the information by law. Should the disclosure be authorized, information may be disclosed only to the extent authorized by law by the reporting state.
- A meeting or a portion of a meeting of the Counseling Compact Commission, the executive committee, or other committees of the commission, where matters specifically exempted from disclosure by federal or state statute are discussed, is exempt from the Florida Statutes requiring meetings to be open and available to the public ((For additional details see chapter 286.011).
- Recordings, minutes, and records generated during an exempt meeting are exempt from the Florida Statutes requiring public records to be released or inspected upon request of a member of the public (For additional details, see chapter 119.07).
- This section is subject to the Open Government Sunset Review Act following the Florida Statutes requiring public records to be released or inspected upon request of a member of the public (For additional details, see chapter 119.15). It will stand repealed on October 2, 2027, unless reviewed and saved from repeal through the legislature's reenactment (Clinical, Counseling, and Psychotherapy Services, 2022).

## Conclusion

Florida laws and rules regarding the practice of clinical social work, marriage and family therapy, and mental health counseling are established to protect the health, safety, and welfare of the members of the public seeking counseling services. The Florida statutes have established the minimum standards of qualifications licensed professional

counselors need to meet so as not to present a danger to those they are treating. Florida has chosen to participate in the professional counselor's licensure compact anticipated to begin in 2023. The goal of the compact is for mutual recognition of other member state licenses and to facilitate the interstate practice of licensed counseling professionals to improve public access to mental health services. Those practicing or desiring to practice either through Florida licensure or the privilege to practice through the compact must be knowledgeable of the laws and rules that regulate their profession.

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## Appendix A: Glossary of Terms

**Board:** The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.

**Clinical Social Worker:** a person licensed under chapter 491 to practice clinical social work in the State of Florida.

**Chapter 456:** is the Florida Statutes regulation of professions and occupations and specifically that of health professions and occupations.

**Chapter 491:** is the Florida Statutes regulation of professions and occupations and specifically that of clinical, counseling, and psychotherapy services.

**Clinical Social Work Experience:** this is a period during which the applicant provides clinical social work services, including assessment, diagnosis, treatment, and evaluation of clients; provided that at least 50 percent of the hours worked consist of providing psychotherapy and counseling services directly to clients.

**Department:** The Department of Health

**Law:** Legal provisions that govern the behavior of members of the profession. Laws are passed by the Florida state legislature (both the house and the senate). It officially becomes a law when signed by the governor.

**Marriage and Family Therapist:** a person licensed under chapter 491 to practice marriage and family therapy in the State of Florida.

**Mental Health Counselor:** a person licensed under chapter 491 to practice mental health counseling in the State of Florida.

**Nolo Contendere:** a plea by which a defendant in a criminal prosecution accepts conviction as though a guilty plea had been entered but does not admit guilt.

**Practice of Clinical Social Work:** the use of scientific and applied knowledge, theories, and methods for the purpose of describing, preventing, evaluating, and treating individual, couple, marital, family, or group behavior, based on the person-in-situation perspective of psychosocial development, normal and abnormal behavior, psychopathology, unconscious motivation, interpersonal relationships, environmental stress, differential assessment, differential planning, and data gathering. The purpose of such services is the prevention and treatment of undesired behavior and enhancement

of mental health. The practice of clinical social work includes methods of a psychological nature used to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, and substance abuse. The practice of clinical social work includes, but is not limited to, psychotherapy, hypnotherapy, and sex therapy. The practice of clinical social work also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, or substance abuse. The practice of clinical social work may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

- Clinical social work may be rendered to individuals, including individuals affected by the termination of marriage, and to marriages, couples, families, groups, organizations, and communities.
- The use of specific methods, techniques, or modalities within the practice of clinical social work is restricted to clinical social workers appropriately trained in the use of such methods, techniques, or modalities.
- The terms “diagnose” and “treat,” as used in this chapter, when considered in isolation or in conjunction with the rules of the board, may not be construed to permit the performance of any act which clinical social workers are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures, or radiological procedures, or use of electroconvulsive therapy. In addition, this definition may not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as “psychological,” except to relate specifically to the definition of practice authorized in this subsection.
- The definition of “clinical social work” in this subsection includes all services offered directly to the general public or through organizations, whether public or private, and applies whether payment is requested or received for services rendered.



Practice of Marriage and Family Therapy: the use of scientific and applied marriage and family theories, methods, and procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior, within the context of marital and family systems, including the context of marital formation and dissolution, and is based on marriage and family systems theory, marriage and family development, human development, normal and abnormal behavior, psychopathology, human sexuality, psychotherapeutic and marriage and family therapy theories and techniques. The practice of marriage and family therapy includes methods of a psychological nature used to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders or dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, and substance abuse. The practice of marriage and family therapy includes, but is not limited to, marriage and family therapy, psychotherapy, including behavioral family therapy, hypnotherapy, and sex therapy. The practice of marriage and family therapy also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), sexual dysfunction, behavioral disorders, alcoholism, or substance abuse. The practice of marriage and family therapy may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

- Marriage and family therapy may be rendered to individuals, including individuals affected by termination of marriage, to couples, whether married or unmarried, to families, or to groups.
- The use of specific methods, techniques, or modalities within the practice of marriage and family therapy is restricted to marriage and family therapists appropriately trained in the use of such methods, techniques, or modalities.
- The terms “diagnose” and “treat,” as used in this chapter, when considered in isolation or in conjunction with the rules of the board, may not be construed to permit the performance of any act that marriage and family therapists are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures or radiological procedures or the use of electroconvulsive therapy. In addition, this definition may not be

construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as “psychological,” except to relate specifically to the definition of practice authorized in this subsection.

- The definition of “marriage and family therapy” contained in this subsection includes all services offered directly to the general public or through organizations, whether public or private, and applies whether payment is requested or received for services rendered.

Practice of Mental Health Counseling: the use of scientific and applied behavioral science theories, methods, and techniques for the purpose of describing, preventing, and treating undesired behavior and enhancing mental health and human development and is based on the person-in-situation perspectives derived from research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation. The practice of mental health counseling includes methods of a psychological nature used to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders, whether cognitive, affective, or behavioral, interpersonal relationships, sexual dysfunction, alcoholism, and substance abuse. The practice of mental health counseling includes, but is not limited to, psychotherapy, hypnotherapy, and sex therapy. The practice of mental health counseling also includes counseling, behavior modification, consultation, client-centered advocacy, crisis intervention, and the provision of needed information and education to clients, when using methods of a psychological nature to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders and dysfunctions (whether cognitive, affective, or behavioral), behavioral disorders, sexual dysfunction, alcoholism, or substance abuse. The practice of mental health counseling may also include clinical research into more effective psychotherapeutic modalities for the treatment and prevention of such conditions.

- Mental health counseling may be rendered to individuals, including individuals affected by the termination of marriage, and to couples, families, groups, organizations, and communities.
- The use of specific methods, techniques, or modalities within the practice of mental health counseling is restricted to mental health counselors appropriately trained in the use of such methods, techniques, or modalities.

- The terms “diagnose” and “treat,” as used in this chapter, when considered in isolation or in conjunction with any provision of the rules of the board, may not be construed to permit the performance of any act that mental health counselors are not educated and trained to perform, including, but not limited to, admitting persons to hospitals for treatment of the foregoing conditions, treating persons in hospitals without medical supervision, prescribing medicinal drugs as defined in chapter 465, authorizing clinical laboratory procedures or radiological procedures, or the use of electroconvulsive therapy. In addition, this definition may not be construed to permit any person licensed, provisionally licensed, registered, or certified pursuant to this chapter to describe or label any test, report, or procedure as “psychological,” except to relate specifically to the definition of practice authorized in this subsection.
- The definition of “mental health counseling” contained in this subsection includes all services offered directly to the general public or through organizations, whether public or private, and applies whether payment is requested or received for services rendered.

Provisional Clinical Social Worker Licensee: a person provisionally licensed under chapter 491 to provide clinical social work services under supervision in the State of Florida.

Provisional Marriage and Family Therapist Licensee: a person provisionally licensed under chapter 491 to provide marriage and family therapy services under supervision in the State of Florida.

Provisional Mental Health Counselor Licensee: a person provisionally licensed under chapter 491 to provide mental health counseling services under supervision in the State of Florida.

Psychotherapist: a clinical social worker, marriage and family therapist, or mental health counselor licensed pursuant to chapter 491 in the State of Florida.

Registered Clinical Social Worker Intern: a person registered under chapter 491 who is completing the postgraduate clinical social work experience requirement specified in licensure by examination.

Registered Marriage and Family Therapist Intern: a person registered under chapter 491 who is completing the post-master’s clinical experience requirement specified in licensure by examination.

Registered Mental Health Counselor Intern: a person registered under chapter 491 who is completing the post-master's clinical experience requirement specified in licensure by examination.

Rule: A regulatory provision developed to implement laws. They are passed by action of a regulatory board, which has the authority to repeal, modify, or expand rules. The Board of Clinical Social Work, Marriage & Family Therapy & Mental Health Counseling set the rules discussed in this course.

Social worker: a person who has a bachelor's, master's, or doctoral degree in social work.

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## Appendix B: Health Professions and Occupations: Grounds for Discipline, Penalties and Enforcement

Retrieved from: Florida Statutes Chapter 456, September 2022

[http://www.leg.state.fl.us/statutes/index.cfm?  
App\\_mode=Display\\_Statute&Search\\_String=&URL=0400-0499/0456/Sections/  
0456.072.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0456/Sections/0456.072.html)

- (1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:
- (a) Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.
  - (b) Intentionally violating any rule adopted by the board or the department, as appropriate.
  - (c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.
  - (d) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under s. 501.122(2) governing the registration of the devices.
  - (e) Failing to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome.
  - (f) Having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.
  - (g) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee.
  - (h) Attempting to obtain, obtaining, or renewing a license to practice a profession by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(i) Except as provided in s. 465.016, failing to report to the department any person who the licensee knows is in violation of this chapter, the chapter regulating the alleged violator, or the rules of the department or the board. However, a person who the licensee knows is unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.

(j) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

(k) Failing to perform any statutory or legal obligation placed upon a licensee. For purposes of this section, failing to repay a student loan issued or guaranteed by the state or the Federal Government in accordance with the terms of the loan is not considered a failure to perform a statutory or legal obligation. Fines collected shall be deposited into the Medical Quality Assurance Trust Fund.

(l) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so. Such reports or records shall include only those that are signed in the capacity of a licensee.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

(n) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

(o) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(p) Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them.

(q) Violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.

(s) Failing to comply with the educational course requirements for domestic violence.

(t) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type of license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, chapter 400, or chapter 429. Each board, or the department where there is no board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.

(u) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(v) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1).

(w) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application.

(x) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. Convictions, findings, adjudications, and pleas entered into prior to the enactment of this paragraph must be reported in writing to the board, or department if there is no board, on or before October 1, 1999.

(y) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents under s. 316.066, or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in the accidents.

(z) Being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with the order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable

intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of his or her profession with reasonable skill and safety to patients.

(aa) Testing positive for any drug, as defined in s. 112.0455, on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug.

(bb) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(cc) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(dd) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

(ee) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill that has been "upcoded" as defined in s. 627.732.

(ff) With respect to making a personal injury protection claim as required by s. 627.736, intentionally submitting a claim, statement, or bill for payment of services that were not rendered.

(gg) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients, a violation of this chapter or ss. 893.055 and 893.0551, a violation of the applicable practice act, or a violation of any rules adopted under this chapter or the applicable practice act of the prescribing practitioner. Notwithstanding s. 456.073(13), the department may initiate an investigation and establish such a pattern from billing records, data, or any other information obtained by the department.

(hh) Being terminated from an impaired practitioner program that is overseen by a consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring or participant contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

(ii) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program.



(jj) Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement.

(kk) Being terminated from the state Medicaid program pursuant to s. 409.913, any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored.

(ll) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud.

(mm) Failure to comply with controlled substance prescribing requirements of s. 456.44.

(nn) Violating any of the provisions of s. 790.338.

(oo) Willfully failing to comply with s. 627.64194 or s. 641.513 with such frequency as to indicate a general business practice.

(pp) Providing information, including written documentation, indicating that a person has a disability or supporting a person's need for an emotional support animal under s. 760.27 without personal knowledge of the person's disability or disability-related need for the specific emotional support animal.

(qq) Intentionally implanting a patient or causing a patient to be implanted with a human embryo without the recipient's consent to the use of that human embryo, or inseminating a patient or causing a patient to be inseminated with the human reproductive material, as defined in s. 784.086, of a donor without the recipient's consent to the use of human reproductive material from that donor.

(rr) Failure to comply with the parental consent requirements of s. 1014.06.

(ss) Being convicted or found guilty of; entering a plea of guilty or nolo contendere to, regardless of adjudication; or committing or attempting, soliciting, or conspiring to commit an act that would constitute a violation of any of the offenses listed in s. 456.074(5) or a similar offense in another jurisdiction.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or to certify with restrictions, an application for a license.

(b) Suspension or permanent revocation of a license.

(c) Restriction of practice or license, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare.

(d) Imposition of an administrative fine not to exceed \$10,000 for each count or separate offense. If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of \$10,000 per count or offense.

(e) Issuance of a reprimand or letter of concern.

(f) Placement of the licensee on probation for a period of time and subject to such conditions as the board, or the department when there is no board, may specify. Those conditions may include, but are not limited to, requiring the licensee to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violations found.

(g) Corrective action.

(h) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

(i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(3)(a) Notwithstanding subsection (2), if the ground for disciplinary action is the first-time failure of the licensee to satisfy continuing education requirements established by the board, or by the department if there is no board, the board or department, as applicable, shall issue a citation in accordance with s. 456.077 and assess a fine, as determined by the board or department by rule. In addition, for each hour of continuing education not completed or completed late, the board or department, as applicable, may require the licensee to take 1 additional hour of continuing education for each hour not completed or completed late.

(b) Notwithstanding subsection (2), if the ground for disciplinary action is the first-time violation of a practice act for unprofessional conduct, as used in ss. 464.018(1)(h), 467.203(1)(f), 468.365(1)(f), and 478.52(1)(f), and no actual harm to the patient occurred, the board or department, as applicable, shall issue a citation in accordance with s. 456.077 and assess a penalty as determined by rule of the board or department.

(4) In addition to any other discipline imposed through final order, or citation, entered on or after July 1, 2001, under this section or discipline imposed through final order, or citation, entered on or after July 1, 2001, for a violation of any practice act, the board, or the department when there is no board, shall assess costs related to the investigation and prosecution of the case. The costs related to the investigation and prosecution include, but are not limited to, salaries and benefits of personnel, costs related to the time spent by the attorney and other personnel working on the case, and any other expenses incurred by the department for the case. The board, or the department when there is no board, shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, the reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing the fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

(5) In addition to, or in lieu of, any other remedy or criminal prosecution, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this chapter, or any provision of law with respect to professions regulated by the department, or any board therein, or the rules adopted pursuant thereto.

(6) If the board, or the department when there is no board, determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish by rule requirements for reapplication by applicants whose licenses have been permanently revoked. The requirements may include, but are not limited to, satisfying current requirements for an initial license.

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), or that an advanced practice registered nurse has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 464.018(1)(n) or (p)6., the physician or advanced practice registered nurse shall be suspended for a period of not less than 6 months and pay a fine of not less than \$10,000 per count. Repeated violations shall result in increased penalties.

(8) The purpose of this section is to facilitate uniform discipline for those actions made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

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## Appendix C: Resources

Association of Social Work Boards

<https://www.aswb.org/>

ASWB provides support and services to the social work regulatory community to advance safe, competent, and ethical practices to strengthen public protection. ASWB's vision is that all social workers are licensed in order to protect clients and client systems.

Association of Marriage and Family Therapy Regulatory Boards

<https://amftrb.org/>

The Association of Marriage and Family Therapy Regulatory Boards (AMFTRB) is the association of state licensing boards governing the regulation of Licensed Marriage and Family Therapists. They develop and administer the MFT National Examination, collaborate with state boards developing policy guidelines, and acting as a clearinghouse for information and research.

Counseling Compact

<https://counselingcompact.org/>

For the latest information on the professional counselor license compact regarding roll out, regulations, and member states.

Florida Board of Social Work, Marriage and Family Therapy, and Mental Health Counseling

<https://floridasmentalhealthprofessions.gov/>

The Florida Board was established to ensure every clinical social worker, marriage and family therapist, and mental health counselor practicing in the state met minimum requirements for competent and safe practice. The board is responsible for licensing, monitoring, disciplining and educating clinical social workers, marriage and family therapists in the state of Florida.

Florida Board: Telehealth

<https://floridasmentalhealthprofessions.gov/pdfs/telehealth-brochure.pdf>

Brochure summarizing Florida's telehealth rules and additional considerations licensed professional counselors need to be aware of such as HIPAA and HITECH.

Florida Health: Licensing and Regulation

<https://www.floridahealth.gov/licensing-and-regulation/enforcement/index.html>

The Department of Health investigates complaints and reports involving health care practitioners regulated by the department and enforces appropriate Florida Statutes. Information on filing a complaint against a licensed professional counselor (or agency) can be found here.

Florida Health: Telehealth

<https://flhealthsource.gov/telehealth/>

Information on Florida's most recent regulations around telehealth.

National Board for Certified Counselors

<https://www.nbcc.org/>

The National Board for Certified Counselors is the credentialing body for counselors. It ensures counselors who are board certified have reached the highest standard of practice through education, examination, supervision, experience, and ethical guidelines. Its purpose is to advance the counseling profession and enhance mental health world wide.

# Quantum Units Education

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