

Title 22. Examining Boards.
Part 30. Texas State Board of Examiners of Professional Counselors.
Chapter 681. Professional Counselors.
Subchapter A. The Board.
Amendment §§681.2, 681.9, 681.12, 681.14, 681.15
Subchapter B. Authorized Counseling Methods and Practices.
Amendment §681.31
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Amendment §681.251

Proposed Preamble

The Texas State Board of Examiners of Professional Counselors (board), proposes amendments to §§681.2, 681.9, 681.12, 681.14, 681.15, 681.31, 681.41, 681.48, 681.72, 681.81, 681.82, 681.83, 681.91, 681.92, 681.93, 681.102, 681.123, 681.125, 681.141, 681.142, 681.161, 681.162, 681.166, 681.202 and 681.251, concerning the licensing and regulation of professional counselors.

BACKGROUND AND PURPOSE

The proposed amendments to the rules expand and clarify the definitions in Subchapter A.

Amendments to Subchapters B and C reflect the evolutionary methods of counseling.

The amendments also expand and clarify the requirements for tele-practice and simplify the application process in Subchapter D.

Proposed amendments to Subchapter E allow exceptions for applicants with degrees older than 10 years and also specify the additional academic course requirements for applicants starting a counseling program as of August 1, 2017.

Amendments to Subchapter F limit an LPC's number of supervisory sites and delete duplicative language concerning the National Counselor Exam. In addition, proposed amendments to Subchapter F clarify supervision requirements for interns and specify the responsibilities and requirements for LPC supervisors.

Amendments to Subchapter G delete "ADA" and properly spell out the law's title as Americans with Disabilities.

Proposed changes to Subchapter I add new requirements regarding inactive licenses.

Amendments to Subchapter J clarify acceptable types and hours of continued education; changes to Subchapter K mandate the type of information needed to process a complaint and also require the board's legal counsel to attend an informal conference.

Proposed amendments to Subchapter M clarify certain factors considered in the type of sanction imposed upon a licensee.

Changes to Subchapter N require licensees serving as parenting coordinators to provide certain information to the parties of the legal suit.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §681.2 expands the definitions of "client" and "indirect hours."

The proposed amendment to §681.9 allows the Chair or Vice Chair to make exceptions to the committee assignments. Currently, rule language authorizes only the board to make such exceptions.

The proposed amendment to §681.12 removes existing subsection (b) because it contains obsolete language. As a result, the section has been renumbered accordingly.

The proposed amendment to §681.14 raises application, licensure and renewal fees for Licensed Professional Counselors, making them comparable to other mental health licensure fees.

The proposed amendment to §681.15 allows exceptions to the specified time for processing applications and renewals in the event of extenuating circumstances.

The proposed amendment to §681.31 clarifies and expands acceptable play therapy.

Proposed amendments to §681.41 specify requirements for distance counseling as well as provide guidance, clarification and consistency on the use of this counseling process

The proposed amendment to §681.48 adds new subsection (c) to require a licensee's legal name appear on the LPC license certificate. The rest of the subsection is renumbered accordingly to reflect this addition.

The proposed amendment to §681.72 removes extraneous language regarding application material.

The proposed amendment to §681.81 allows the board to hear exceptions to current rule language, which precludes applicants from using degrees and coursework earned 10 years prior to the application date.

The proposed amendment to §681.82 is amended to add couples, families, organizations and communities direct service training as an academic requirement an applicant must receive in order to qualify for LPC licensure.

The proposed amendment to §681.83 allows Lifestyle and Career Development as an elective course while making couples, marriage, families or parenting courses mandatory; these changes are effective for applicants beginning a counseling program as of August 1, 2017.

The proposed amendment to §681.91 limits the number of supervisory sites an LPC Intern can have at any given time. Existing subsection (i) is deleted to ensure consistency with other rules, and the section is renumbered accordingly to reflect this change.

Proposed amendments to §681.92 add organizations and communities as mandatory direct counseling services for an LPC intern, clarifies when the LPC intern must receive specific hours of supervision; the proposed changes also remove redundant language.

Proposed amendments to §681.93 increase the amount a time a licensee must hold licensure before the licensee may apply for supervision status in order to ensure the licensee has adequate experience to supervise interns. It also specifies the percentage of continued education which must be face to face and expands upon and details the type of records a supervisor must keep for each intern. Finally, amendments to the section provide the legal citation for applicable fair hearing rules and add refund of supervisory fees to an intern as a possible sanction to a supervisor who violates board rules.

The proposed amendment to §681.102 replaces the term ADA with its full, spelled out title, “Americans with Disabilities Act” for clarification.

The proposed amendment to §681.123 specifies the address to which a license renewal notice will be submitted.

The proposed amendment to §681.125 limits the inactive status of an LPC license to a total of 2 years and requires board approval before a temporary license may be placed on inactive status.

The amendments to §681.141 specify the type of ethics acceptable for Continuing Education credit; changes to the section now allow a supervisor to attend an application committee meeting of the board in lieu of completing required supervision continued education credit. .

The amendments to §681.142 specify acceptable continuing education, allow attendance at a complaints committee meeting to count as 3 hours of continued education credit and exempt

board members from meeting the continuing education requirements while serving on the board. In addition, changes to this section require couples, family, organization or communities as a required counseling method or technique for continued education credit.

Proposed amendments to §681.161 mandate the type of information needed to process a complaint.

Proposed amendments to §681.162 clarify the circumstances under which a formal hearing may be offered to an applicant whose application for licensure was denied.

Amendments to §681.166 require the board's legal counsel to attend each informal conference.

Amendments to §681.202 clarify certain factors considered in the type of sanction imposed upon a licensee.

Proposed amendments to §681.251 reorganizes the section to improve clarity.

FISCAL NOTE

Bobbe Alexander, Executive Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Alexander has also determined that there will be no economic costs to small businesses or micro-businesses as a result of these proposed rules as these entities will not be required to alter their business practices to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

REGULATORY ANALYSIS

The board has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The board has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC BENEFIT

Ms. Alexander has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is increased number of individuals served by licensed professional counselors/interns by the availability of additional licensed health professionals through the facilitation of the occupational licensing of applicants with applicable military experience and of qualified military spouses and the effective regulation of the practice of counseling in Texas, which will protect and promote public health, safety, and welfare and ensure that statutory directives are carried out.

PUBLIC COMMENT

Comments on the proposal may be submitted to Bobbe Alexander, Executive Director, State Board of Examiners of Professional Counselors, Department of State Health Services, Mail Code 1982, P.O. Box 149347, Austin, Texas 78714-9347 or by email to lpc@dshs.state.tx.us. When emailing comments, please indicate "Comments on Proposed Rules" in the email subject line. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

The amendments are authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The amendments affect Occupations Code, Chapter 503.

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

SUBCHAPTER A. THE BOARD.

§681.2. Definitions. The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) - (5) (No change.)

(6) Client--~~An Individual, couple, family, group, organization or community~~ [A person]who requests and receives counseling services from a licensee or who has engaged in a therapeutic relationship with a licensee.

(7) - (11) (No change.)

(12) Indirect hours-Time spent in management, consultation, administration or other aspects of counseling service ancillary to direct client contact.

(13) - (15) (No change.)

(16) LPC Intern--A person who holds a temporary license to practice counseling only under supervision.

(17) - (18) (No change.)

§681.9. Committees.

(a) - (f) (No change.)

(g) Each committee shall consist of at least one public member and one professional member, unless the board Chair or Vice Chair authorizes otherwise.

§681.12. Official Records of the Board.

(a) (No change.)

[(b) When a request is unreasonably disruptive to the ongoing business of the office or when the safety of any record is at issue, physical access by inspection may be denied and the requester will be provided the option of receiving duplicate copies at the requester's cost.]

(b)[(c)]Costs of duplication shall be paid by the requester at the time of or before the duplicated records are sent or given to the requester.

(c)[(d)]The rules of procedure for inspection and duplication of public records contained in the Public Information Act, Texas Government Code, Chapter 552, shall apply to requests received by the board.

§681.14. Licensing Fees.

(a) Licensing fees are as follows:

(1) Application, intern license and initial license fee--~~\$250~~[\$190];

(2) 2 year renewal fee--~~\$160~~[\$100];

(3) late renewal fee:

(A) 1-90 days after license expiration--~~\$200~~[\$125]; and

(B) 91-365 days after license expiration--~~\$240~~[\$150].

(4) 2-year inactive status fee--~~\$100~~[\$50];

(5) - (6) (No change.)

(7) art therapy specialty designation application fee--~~\$50~~[\$30] (in addition to any necessary application fees listed in paragraphs (1) - (6) of this subsection); and

(8) (No change.)

(b) - (e) (No change.)

§681.15. Processing Procedures.

Time periods. The board shall comply with the following procedures in processing applications for a license and renewal of a regular license:

(1) - (3) (No change.)

(4) The board may exceed the time period if:

(A) the number of applications for license or license renewal exceeds the number of applications processed in the same calendar quarter the preceding year by at least 15%;

(B) another public or private entity relied upon by the board caused the delay of the application process; or

(C) good cause shown for exceeding the time period.

SUBCHAPTER B. AUTHORIZED COUNSELING METHODS AND PRACTICES.

§681.31. Counseling Methods and Practices. The use of specific methods, techniques, or modalities within the practice of professional counseling is limited to professional counselors appropriately trained and competent in the use of such methods, techniques, or modalities. Authorized counseling methods techniques and modalities may include, but are not restricted to, the following:

(1) - (11) (No change.)

(12) play therapy which utilizes play and play media as the child's natural medium of self-expression, and verbal tracking of the child's play behaviors and feelings as a part of the therapist's role in helping children overcome their social, emotional, and behavioral[mental]issues;

(13) - (15) (No change.)

(16) assessing and appraising, in compliance with §681.43 of this title (relating to Testing), which utilizes formal and informal instruments and procedures, for which the counselor has received appropriate training and supervision, in individual and group settings for the purposes of determining the client's strengths and weaknesses, mental condition, emotional stability, intellectual ability, interests, aptitudes, achievement level and other personal characteristics for a better understanding of[human]behavior, and for diagnosing mental health disorders; but does not permit the diagnosis of a physical condition or physical disorder;

(17) - (18) (No change.)

SUBCHAPTER C. CODE OF ETHICS.

§681.41. General Ethical Requirements.

(a) - (f) (No change.)

(g) Technological means of communication may be used to facilitate the therapeutic counseling process. A License Professional Counselor licensed by the State of Texas shall have a face to face initial intake session before beginning a distance counseling relationship. When distance counseling, the licensee must reside in the State of Texas and the client must be a resident of or within the state of Texas with the exception of the military.

[(g) Technological means of communication may be used to facilitate the therapeutic counseling process. Counselors engaging in interactive distance counseling must adhere to each provision of the rules and statutes of the board.]

(h) - (o) (No change.)

(p) In individuals, couples, families, groups, organizations and communities[individual and group]counseling settings, the licensee shall take reasonable precautions to protect individuals from physical or emotional harm resulting from interaction within a group or from individual counseling.

(q) (No change.)

(r) Records held by a licensee or Board approved supervisor shall be kept for a minimum of five years from the date of the last contact with the client or from the date the LPC-Intern receives full licensure.

(s) (No change.)

(t) Billing Requirements.[A licensee shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.]

(1) A licensee shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.

(2)[(1)]Relationships between a licensee and any other person used by the licensee to provide services to a client shall be so reflected on billing documents.

(3)[(2)]Pursuant to Texas Health and Safety Code, Chapter 611, on the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee shall provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.

(4)[(3)]A licensee may not knowingly overcharge a client.

(5)[(4)]With the exception of an unkept appointment, a licensee may not submit to a client or a third party payor a bill for counseling treatment intervention that the licensee knows was not provided or knows was improper, unreasonable, or unnecessary.

(u)[(5)]A licensee shall comply with requirements of Texas Health and Safety Code, Chapters 611 and 181, concerning the release of mental health records and confidential information.

(v)[(6)]Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee shall obtain, [and] review, and abide by a current copy of the custody agreement or court order, as well as any applicable part of the divorce decree. A licensee shall maintain these documents in the client's record. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a minor, a licensee shall follow the protocol set forth in such federal or state statutes.

(w)[(u)]A licensee shall terminate a professional counseling relationship when it is reasonably clear that the client is not benefiting from the relationship.

(x)[(v)]Upon termination of a relationship if professional counseling is still necessary, the licensee shall take reasonable steps to facilitate the transfer to appropriate care.

(y)[(w)] A licensee shall not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses with the evaluation that the licensee has not personally interviewed the individual.

(z)[(x)] A licensee shall not knowingly over treat a client.

(aa)[(y)] A licensee shall not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act. A licensee shall report to the board knowledge of any unlicensed practice of counseling.

(bb)[(z)] A licensee or an applicant for licensure shall not participate in any way in the falsification of applications for licensure or renewal of license.

§681.48. Consumer Information.

(a) - (b) (No change.)

(c) The legal name of the licensee shall appear on the license certificate and renewal card.

(d)[(c)] A licensee shall not display a license certificate or current renewal card issued by the board which has been reproduced or is expired, suspended, or revoked.

(e)[(d)] A licensee shall not make any alteration on a license certificate or renewal card issued by the board.

(f)[(e)] On all advertisements, billings and announcements of counseling treatment by an LPC Intern, the intern's name shall be followed by the name of the supervisor in the same type size and font.

SUBCHAPTER D. APPLICATION PROCEDURES.

§681.72. Required Application Materials.

An applicant for licensure must submit:

(1)[(a)] A general application form, [shall include, but not be limited to:]

[(1) specific information regarding personal data, employment and type of practice, other state licenses and certifications held, felony or misdemeanor convictions, and educational background;]

[(2) a statement that the applicant has read the Act and board rules, and agrees to abide by them;]

[(3) the applicant's permission to the board to seek any information it requires to determine the applicant's qualifications;]

[(4) a statement that the applicant, if issued a license certificate, shall return the license to the board upon the revocation or suspension of the license;]

[(5) a statement that the applicant understands that fees submitted in the licensing process are non-refundable;]

[(6) the applicant's signature and the date of signing.]

(2)[(b)]The practicum documentation form_ [shall contain:]

[(1) the applicant's name;]

[(2) the name and address of the agency or organization where the practicum was completed;]

[(3) the name, address, degree, position, and licensure status of the supervisor of the practicum;]

[(4) inclusive dates of the practicum, the number of clock-hours of practice, the number of academic semester hours awarded, and the name of the school at which the practicum was taken;]

[(5) the type of setting, the type of clients seen, and the counseling methods practiced;]

[(6) any evaluation of the counseling skills of the applicant; and]

[(7) the signature of the supervisor or agency or school official who can formally attest to the applicant's practicum experience.]

(3)[(c)]A supervisor agreement form. [The supervisor shall submit a supervisory agreement form completed, signed and dated by both the supervisor and the applicant. A current copy of the supervisor's renewal card shall be attached to the agreement form.]

[(d) The supervised experience documentation form must be completed by the applicant's supervisor and contain:]

[(1) the name of the applicant;]

[(2) the name, address, degree, licensure status, and credentials of the applicant's supervisor;]

[(3) the name and address of the agency or organization where the experience was completed;]

[(4) the inclusive dates of the supervised experience and the total number of hours of practice;]

[(5) the number of hours of weekly face-to-face supervision given to the applicant, the total number of supervisory hours received by the applicant in the experience, and the types of supervision used;]

[(6) the applicant's employment status during supervised experience;]

[(7) the types of clients seen and counseling methods used;]

[(8) the supervisor's evaluation of the applicant's counseling skills and competence for independent or private practice; and]

[(9) a statement that the supervised experience complies with the rules set out in Subchapter F of this chapter (relating to Experience Requirements for Licensure) and §681.73 of this title (relating to Application for Art Therapy Specialty Designation).]

(4)[(e)]Graduate transcripts[.An applicant must have the official transcript(s) showing all relevant graduate work]sent directly to the board from the school(s), either by mail or e-transcript, where the applicant obtained the course work or an official transcript may be attached to the application in a sealed envelope from the college or university.

(5)[(f)]An applicant must submit examination results from the National Board of Certified Counselors verifying a passing score on the National Counselor Exam [along with proof of completion of the Texas Jurisprudence Exam]. The National Counselor Exam must have been taken no more than five years prior to the date of application. [If applying by reciprocity, the five year limit does not apply. The Texas Jurisprudence Exam must have been taken no more than two years prior to the date of application.]

(6) Proof of completing the Texas Jurisprudence exam taken not more than two years prior to the date of application.

(7) The supervised experience documentation form if applying from another state.

SUBCHAPTER E. ACADEMIC REQUIREMENTS FOR LICENSURE.

§681.81. General.

(a) - (g) (No change.)

(h) A graduate degree and graduate coursework that was awarded or earned more than 10 years prior to the application date may not be used to fulfill the requirements for licensure unless the applicant has held a license issued by another state or has been counseling in Texas in an exempt setting for at least five years prior to the application date. Applicants with degrees older than 10 years must petition the board.

§681.82. Academic Requirements.

(a) (No change.)

(b) The 48/60 semester hours must be designed to train a person to provide direct services to assist individuals, couples, families, groups, organizations and communities[individuals or groups]in a professional counseling relationship using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

(1) - (2) (No change.)

(c) (No change.)

§681.83. Academic Course Content.

(a) - (b) (No change.)

(c) As of August 1, 2017, the following courses to meet the 60 hour requirement shall include:

(1) (2) (No change.)

(3) couples, marriage, families, or parenting;

(4)[(3)] a course in psychopathology to include such content as criteria of psychiatric diagnosis, use of the current Diagnostic and Statistical Manual of Mental Disorders and the theories of psychopathology. The course should also include the basic knowledge of types of psychopharmacological medications; and [Additional courses may also include:]

[(A) crisis counseling;]

[(B) couples, marriage, families, or parenting].

(5) Additional courses may also include:

(A) crisis counseling;

(B) lifestyle and career development.

(d) An applicant does not have the right to a hearing if his or her application for licensure is denied based on the applicant's failure to meet academic requirements.

[(d) Passing the National Counselor Exam does not guarantee that Texas state licensure requirements have been satisfied.]

SUBCHAPTER F. EXPERIENCE REQUIREMENTS FOR LICENSURE.

§681.91. Temporary License.

(a) - (d) (No change.)

(e) An LPC Intern may have no more than five sites at any given time.

(f)[(e)]An LPC Intern must maintain a temporary license during his or her supervised experience.

(g)[(f)]An LPC Intern license will expire 60 months from the date of issuance.

(h)[(g)]An LPC intern who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure. The person may obtain a new license by complying with the current requirements and procedures for obtaining an original license, including examination requirements.

(i)[(h)]Applicants who previously held licensure in Texas must reapply under requirements in place at the time of application.

(i) Applicants who have completed the supervised experience and who have not passed the NCE at the time of application are not eligible for an initial or an additional temporary license. Such applicants may obtain a regular license by taking and passing the NCE].

(j) - (l) (No change.)

§681.92. Experience Requirements (Internship).

(a) - (f) (No change.)

(g) The experience must consist primarily of the provision of direct counseling services within a professional relationship to individuals, families, couples, [or] groups, organizations and communities by using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

(h) The LPC Intern must receive direct supervision consisting of a minimum of four hours per month of face to face or live Internet webcam supervision in individual (up to two Interns) or group (three or more) settings while[for each week] the intern is engaged in counseling. No more than 50% of the total hours of supervision can be live Internet webcam supervision and no more than 50% of the total hours of supervision may be received in group supervision.[No more than 50% of the total hours of group supervision may be live Internet webcam supervision.]

(i) - (o) (No change.)

§681.93. Supervisor Requirements.

(a) All internships physically occurring in the State of Texas must be completed under the supervision of a board approved supervisor. The supervisor must have held the regular license in good standing for at least 5 years[36 months]from the date of issuance.

(b) (No change.)

(c) A supervisor under this section must have met the following requirements.

(1) A licensee seeking approval to be a supervisor must meet the requirements of subsection (a) of this section, successfully complete 40 clock-hours of training in the supervision of professional counseling or mental health services as set forth in this subsection; and shall submit a \$100 processing fee. Application for supervision status must be submitted within 2 years of completing the 40-hour supervision course or within 5 years of completing a doctoral level supervision course from an accredited university. The initial supervisor approval will expire on the day the licensee's regular license next expires. Renewal of supervisor approval will begin and expire on the same dates as for the regular license. A renewal application must be filed with the board, accompanied by a \$100 renewal processing fee. The 40 clock-hours of training shall be met through the following:

(A) (No change.)

(B) continuing education programs meeting the requirements of §681.142 of this title (relating to Types of Acceptable Continuing Education) of which 50% of the hours must be face to face instruction.

(2) - (3) (No change.)

(d) A supervisor shall keep a written record of each supervisory session in the file of the intern.

(1) The supervisory written record shall contain:

(A) fees and record of payment;

(B) the date and length of the supervisory session;

(C) the topics that were discussed during the supervisory session;

(D) identification of the supervisory session as an individual or a group session and interns who are in attendance;

(E) identify if the supervisory session is being conducted face-to-face or live internet webcam;

(F) a record of any concerns the supervisor discussed with the intern; and

(G) current board approved site or sites.

(2) Records shall be kept 5 years past the last date of supervision.

[(d) A board approved supervisor shall maintain and sign a record(s) to document the date of each supervision conference and document the LPC Intern's total number of hours of supervised experience accumulated up to the date of the conference. The record shall reflect the approved site where the hours were accrued and the content of the supervision.]

(e) The supervisor must maintain a summary log of the indirect, direct, and supervision hours accrued by an intern in one week and a brief summary of the supervisory session. This log must be dated and initialed by both the supervisor and the intern.

(f)[(e)]The full professional responsibility for the counseling activities of an LPC Intern shall rest with the intern's board approved supervisor(s). If the LPC Intern receives disciplinary action by the board, the supervisor may also be subject to disciplinary action.

(1) The supervisor shall ensure that the LPC Intern is aware of and adheres to board rules found in this chapter. [Subchapter C of this chapter (relating to Code of Ethics).]

(2) a relationship between the supervisor and the LPC Intern that impairs the supervisor's objective, professional judgment shall be avoided.

(3) A supervisor may not be related within the second degree by affinity or within the third degree by consanguinity to the LPC Intern.

(4) If a supervisor determines that the LPC Intern may not have the counseling skills or competence to practice professional counseling under a regular license, the supervisor shall develop and implement a written plan for remediation of the LPC Intern which shall be part of the LPC Intern's file.

(5) A supervisor shall submit accurate documentation of supervised experience to the board within 30 days of completion of hours.

(6) It is the responsibility of the board approved supervisor to ensure the supervised hours of the LPC Intern were:

(A) earned after the temporary license was issued; and

(B) in not less than 18 months.

(g)[(f)]A supervisor whose license is expired, revoked or suspended is no longer an approved supervisor and hours accumulated under that person's supervision after expiration, revocation or suspension may not count as acceptable hours.

(h)~~(g)~~A supervisor who becomes subject to a board disciplinary order is no longer an approved supervisor. The person shall immediately inform all LPC Interns under their supervision of the board disciplinary order and assist the LPC Interns in finding alternate supervision.

(i)~~(h)~~A supervisor may not be an employee of an LPC Intern.

(j)~~(i)~~The LPC Intern may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(k)~~(j)~~Supervisory status may be denied, revoked, or suspended following a fair hearing for violation of the Act or rules. The fair hearing will be conducted under the fair hearing rules of the Department of State Health Services 25 TAC Chapter 1, Subchapter C.

(l)~~(k)~~A supervisor whose supervisory status has expired may be required to refund all supervisory fees received after the expiration of the supervisory status to the intern(s) who paid the fees.

(m)~~(l)~~Supervision of the intern without being approved as a supervisor or after expiration of the supervisor status may be grounds for disciplinary action.

(n)~~(m)~~Supervisors who are in violation of board rules may be subject to an administrative penalty of up to \$5,000 per day depending on the level of severity and/or be required to refund all or a portion of the fees received by the intern to the supervisor.

SUBCHAPTER G. LICENSURE EXAMINATION.

§681.102. Notice of Results.

(a) (No change.)

(b) Non-electronically administered examinations may be requested as an Americans with Disabilities Act~~[ADA]~~accommodation; however, grading will not be immediately available upon completion of the examination.

SUBCHAPTER I. REGULAR LICENSE RENEWAL; INACTIVE AND RETIREMENT STATUS.

§681.123. License Renewal.

(a) At least 30 days prior to the expiration of a regular license the board will send notice to the licensee at the~~[a licensee's]~~last known address that includes the expiration date of the license and instructions for renewing the license.

(b) - (e) (No change.)

§681.125. Inactive Status.

(a) - (c) (No change.)

(d) A person shall[may]remain subject to investigation and action under Subchapter K of this chapter (relating to Complaints and Violations) during the period of inactive status.

(e) - (f) (No change.)

(g) A person previously approved as a supervisor whose supervisor status has expired for 2 or more years or been inactive for 2 or more years and who wishes to resume the supervisor status or active license status may become a supervisor by again completing a board approved 40 hour supervisor course or equivalent and pay appropriate fees.

(h) The licensee may only remain on inactive status for two years.

[(h) The licensee must renew the inactive status every two years.]

(i) A temporary license cannot be placed on inactive status without prior board approval.

SUBCHAPTER J. CONTINUING EDUCATION REQUIREMENTS.

§681.141. General.

(a) - (b) (No change.)

(c) A licensee must complete at least four hours of continuing education directly related to Texas LPC [counselor]ethics[issues]each renewal period. Completion of the Texas Jurisprudence Exam will count as one hour of continuing education in counselor ethics.

(d) - (e) (No change.)

(f) A licensee holding the supervisor status must complete either 6 hours of continuing education in supervision or attend an applications committee meeting of the board.

[(f) A licensee holding the supervisor status must complete 6 hours of continuing education in supervision every two years.]

§681.142. Types of Acceptable Continuing Education.

(a) Acceptable continuing education may include:

(1) - (3) (No change.)

(4) completion of an independent study program directly related to counseling and approved or offered by a nationally recognized professional organization in the mental

health field or its state equivalent, approved or offered by an accredited college or university, or approved or offered by a board approved continuing education provider. Nine hours of the 24 required must be face to face;

(5) participation in programs directly related to counseling and are offered by persons approved by the board as continuing education providers; and/or

(6) attendance at a complaints committee meeting of the board without being a respondent[to]or complainant involved in a complaint may receive 3 hours of credit. The hours obtained can be used for[either]ethics[or supervision credit]. To receive continuing education for the supervision status the licensee must attend an applications committee meeting of the board.

(7) Board members are exempt from meeting continuing education requirements while serving on the board.

(b) Continuing education must fall within these approved content areas:

(1) - (4) (No change.)

(5) counseling methods or techniques;

(A) counseling individuals;[and]

(B) groups; and

(C) couples, family, organizations or communities;

(6) - (10) (No change.)

SUBCHAPTER

§681.161. Complaint Procedures.

(a) - (d) (No change.)

(e) The executive director initially reviews the complaint to determine jurisdiction. If a complaint appears to be within the board's jurisdiction, the executive director shall decide whether to authorize sending a copy of the complaint to the respondent and requesting a response, which will[may]include but not be limited to requesting that a copy of the client's entire records be attached to the response. If the executive director does not authorize written notification of the respondent, the complaint will be referred for an investigation and the assigned investigator will determine whether the respondent will be notified by letter, phone call, site visit, or some other appropriate means. If the complaint is against a person licensed by another board, the department staff will forward the complaint to that board not later than the 15th day after the date the agency determines that the information shall be referred to the

appropriate agency as provided in Government Code, Chapter 774, relating to exchange of information between regulatory agencies.

(f) - (j) (No change.)

§681.162. Disciplinary Action; Notices.

(a) - (b) (No change.)

(c) If denial based on paragraph (a) of this subsection, revocation, or suspension of a license is proposed, the board shall give written notice of the basis for the proposal and state that the licensee or applicant must request, in writing, a formal hearing within 15 working days of receipt of the notice, or the right to a hearing shall be waived and the license shall be denied, revoked, or suspended.

(d) - (e) (No change.)

§681.166. Informal Disposition.

(a) - (h) (No change.)

(i) The board's legal counsel shall[may]attend each informal conference. The complaints committee member or executive director may call upon the attorney at any time for assistance in the informal conference.

(j) - (v) (No change.)

SUBCHAPTER M. SCHEDULE OF SANCTIONS.

§681.202. Relevant Factors. When a licensee has violated the Act or this chapter, three general factors combine to determine the appropriate sanction which includes: the culpability of the licensee; the harm caused or posed; and the requisite deterrence. It is the responsibility of the licensee to bring exonerating factors to the attention of the complaints committee or the administrative law judge. Specific factors are to be considered as set forth in paragraphs (1) - (5) of this section.

(1) - (4) (No change.)

(5) Miscellaneous Factors. The following factors are identified:

(A) age and experience of the licensee at time of violation;

(B) presence or absence of prior or subsequent violations committed by the licensee;

(C) - (E) (No change.)

SUBCHAPTER

§681.251. Parenting Coordination.

(a) In accordance with the Family Code, §153.601(3), “parenting coordinator” means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described in Family Code, §153.606, in a suit; and

(2) who:

(A) is appointed under Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through confidential procedures; and

(B) is not appointed under another statute or a rule of civil procedure.

(b) A licensee, who serves as a parenting coordinator, has a duty to provide the following information to the parties of the suit;

~~(c)~~[(b)](A licensee, who serves as a parenting coordinator, is not acting under the authority of a license issued by the board and is not engaged in the practice of professional counseling. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the board, but rather the jurisdiction of the appointing court.

[(c) A licensee, who serves as a parenting coordinator, has a duty to provide the information in subsection (b) of this section to the parties to the suit.]

(d) - (e) (No change.)