

**PROPOSED REGULATION OF THE BOARD OF EXAMINERS
FOR MARRIAGE AND FAMILY THERAPISTS
AND CLINICAL PROFESSIONAL COUNSELORS**

LCB File No. R091-14

July 16, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 2 and 4-11, NRS 641A.160; §3, NRS 641A.160 and 641A.180.

A REGULATION relating to mental health; providing for an endorsement to the license of a clinical professional counselor or a clinical professional counselor intern which authorizes the licensee to assess and treat couples or families; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors of clinical professional counselors and clinical professional counselor interns. (NRS 641A.160) The practice of clinical professional counseling is defined in existing law as including the assessment or treatment of couples or families, if the assessment or treatment is provided by a person who, through the completion of course work or supervised training or experience, has demonstrated competency in the assessment or treatment of couples or families as determined by the Board. (NRS 641A.065) **Section 3** of this regulation lists the course work, examination and supervised experience a clinical professional counselor or clinical professional counselor intern must successfully complete to obtain an endorsement from the Board that authorizes the clinical professional counselor or clinical professional counselor intern to assess or treat couples or families. **Section 2** of this regulation provides that the Board will issue such an endorsement to a clinical professional counselor or clinical professional counselor intern who completes the required course work, examination and supervised experience. **Section 5** of this regulation provides that the Board may, for good cause shown, grant, deny, suspend or revoke the endorsement of any clinical professional counselor intern. **Sections 6 - 8, 10 and 11** of this regulation subject the endorsement of a clinical professional counselor or clinical professional counselor intern to the same professional standards as licensure and provide that the Board may take the same disciplinary measures against the holder of such an endorsement as against other licensees.

Section 1. Chapter 641A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A clinical professional counselor or a clinical professional counselor intern who seeks an endorsement must submit to the Board:*

(a) An application completed on a form provided by the Board; and

(b) Proof of successful completion of the requirements of section 3 of this regulation, including, without limitation, official transcripts from each institution of higher learning he or she attended to complete the requirements of paragraph (a) of subsection 1 of section 3 of this regulation.

2. Upon receipt of an application and proof of successful completion of the requirements of section 3 of this regulation from a clinical professional counselor or a clinical professional counselor intern, the Board will issue an endorsement to the clinical professional counselor or clinical professional counselor intern.

3. An endorsement issued pursuant to this section is valid for the same term as the license of the clinical professional counselor or clinical professional counselor intern. A clinical professional counselor or clinical professional counselor intern who wishes to renew his or her endorsement must submit to the Board:

(a) An application for renewal on a form provided by the Board; and

(b) Proof of completion of any other requirements for renewal prescribed by the Board.

Sec. 3. 1. *To qualify for an endorsement, a clinical professional counselor or clinical professional counselor intern must:*

(a) Except as otherwise provided in subsections 6 and 7, successfully complete at least six courses, each of which must be worth at least 3 semester hours or 4 quarter hours, and each of which must cover one of the following areas of study:

(1) Marital and family studies, including, without limitation, couple and family development and dynamics;

(2) Marital and family systems theory and systemic therapy approach;

(3) Couples counseling;

(4) Family counseling;

(5) Ethical and legal issues in marriage and family counseling; and

(6) Diagnosis and assessment with couples and families.

(b) Complete at least 500 hours of face-to-face couples or family counseling and at least 100 hours of supervision related to that counseling, provided by a supervisor who meets the requirements of subsection 4 or 5, as applicable.

(c) Pass the national examination sponsored by the Association of Marital and Family Therapy Regulatory Boards or its successor organization.

2. A course may not be used to satisfy the requirements for more than one area of study set forth in subsection 1.

3. The Board will consider only courses completed at the graduate level for fulfillment of the educational requirements of subsection 1.

4. For the purposes of paragraph (b) of subsection 1, a person is qualified to supervise a clinical professional counselor or clinical professional counselor intern who completes the counseling and supervision requirements of paragraph (b) of subsection 1 in this State if the person is:

(a) Designated by the American Association for Marriage and Family Therapy or its successor organization as an Approved Supervisor;

(b) A marriage and family therapist who has been designated as a primary supervisor approved by the Board pursuant to NAC 641A.182;

(c) A marriage and family therapist who the Board has determined possesses qualifications that are substantially equivalent to the qualifications required for a primary supervisor approved pursuant to NAC 641A.182; or

(d) A clinical professional counselor who the Board has determined possesses qualifications that are substantially equivalent to the qualifications required for a primary supervisor approved pursuant to NAC 641A.182.

5. For the purposes of paragraph (b) of subsection 1, a person is qualified to supervise a clinical professional counselor or clinical professional counselor intern who completes the counseling and supervision requirements of paragraph (b) of subsection 1 outside of this State if the person is:

(a) Designated by the American Association for Marriage and Family Therapy or its successor organization as an Approved Supervisor; or

(b) A person who is trained and qualified to assess and treat couples and families and who the Board has determined possesses qualifications that are substantially equivalent to the qualifications required for a primary supervisor approved pursuant to NAC 641A.182.

6. A clinical professional counselor or clinical professional counselor intern who has a graduate degree in marriage and family counseling from a marriage and family counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs or its successor organization is not required to complete the course requirements of paragraph (a) of subsection 1 to qualify for an endorsement.

7. A clinical professional counselor or clinical professional counselor intern who earned a graduate degree in clinical mental health counseling on or after January 1, 2010, from a clinical mental health counseling program accredited by the Council for Accreditation of Counseling and Related Educational Programs or its successor organization is not required to complete the course requirements of subparagraph (2) of paragraph (a) of subsection 1 in marital and family systems theory and systemic therapy approach to qualify for an endorsement.

Sec. 4. NAC 641A.035 is hereby amended to read as follows:

641A.035 As used in this chapter, unless the context otherwise requires:

1. “Approved supervisor” has the meaning ascribed to it in NRS 641A.025 and includes an approved primary and secondary supervisor.
2. “Board” has the meaning ascribed to it in NRS 641A.030.
3. “Clinical professional counselor” has the meaning ascribed to it in NRS 641A.031.
4. “Clinical professional counselor intern” means a person licensed as a clinical professional counselor intern pursuant to NRS 641A.288.
5. *“Endorsement” means an authorization added to the license of a clinical professional counselor or a clinical professional counselor intern pursuant to section 2 of this regulation which indicates that the Board has determined that the licensee has demonstrated competency in the assessment or treatment of couples or families and authorizes the clinical professional counselor or clinical professional counselor intern to expand the scope of his or her practice to include the assessment or treatment of couples or families.*
6. “Intern” means a marriage and family therapist intern or a clinical professional counselor intern.

~~16.1~~ 7. “Internship” means the period of supervised experience required of a marriage and family therapist intern pursuant to NRS 641A.287 or a clinical professional counselor intern pursuant to NRS 641A.288.

~~17.1~~ 8. “License” has the meaning ascribed to it in NRS 641A.040.

~~18.1~~ 9. “Marriage and family therapist” has the meaning ascribed to it in NRS 641A.060.

~~19.1~~ 10. “Marriage and family therapist intern” means a person licensed as a marriage and family therapist intern pursuant to NRS 641A.287.

~~110.1~~ 11. “Practice of clinical professional counseling” has the meaning ascribed to in NRS 641A.065.

~~111.1~~ 12. “Practice of marriage and family therapy” has the meaning ascribed to it in NRS 641A.080.

Sec. 5. NAC 641A.176 is hereby amended to read as follows:

641A.176 1. The Board may, for good cause shown, grant, deny, suspend or revoke the license *or endorsement* of any intern.

2. An intern is subject to the same standards of professional ethics as a marriage and family therapist or clinical professional counselor, as applicable.

3. The Board may, for good cause shown, approve, deny or revoke the proposed supervisor or approved supervisor of any intern.

Sec. 6. NAC 641A.243 is hereby amended to read as follows:

641A.243 A marriage and family therapist, clinical professional counselor or intern:

1. Shall not misrepresent, in advertising or otherwise, his or her education, training, type of license, *endorsement*, qualifications, competence or service, or the results to be achieved if he or she provides service to a client.
2. Shall not engage in the practice of marriage and family therapy or the practice of clinical professional counseling while impaired by:
 - (a) Alcohol, drugs or any other chemical; or
 - (b) A mental or physical condition that prevents him or her from safely engaging in the practice of marriage and family therapy or the practice of clinical professional counseling.
3. Shall not use his or her relationship with a client to further his or her own personal, religious, political or business interests.
4. Shall set and maintain professional boundaries with clients, interns and persons with whom he or she works.
5. Shall not give or receive, directly or indirectly, a fee, commission, rebate or other compensation for professional services that he or she has not actually and personally provided.
6. Shall not knowingly offer service to a client who is receiving treatment from another marriage and family therapist, clinical professional counselor or intern, or a holder of a license, certificate or registration issued by any other similar board, without prior consultation between the client and the other marriage and family therapist, clinical professional counselor, intern or holder of the license, certificate or registration.
7. Except as otherwise provided in subsection 8, shall not disparage the qualifications of any colleague.

8. Shall report to the Board any unlicensed, unauthorized, unqualified or unethical practice of marriage and family therapy or the practice of clinical professional counseling that is occurring.

9. Shall not attempt to diagnose, prescribe for, treat or provide advice for any problem which is outside of his or her field of competence, the scope of the practice of marriage and family therapy or the practice of clinical professional counseling, as applicable, or the scope of his or her license ~~H~~ *or endorsement, if applicable.*

10. Shall base his or her practice upon the recognized knowledge relevant to marriage and family therapy or clinical professional counseling, as applicable.

11. Shall critically examine and keep current with emerging knowledge relevant to the practice of marriage and family therapy or the practice of clinical professional counseling, as applicable.

12. Based upon recognized knowledge and standards for the practice of marriage and family therapy or the practice of clinical professional counseling, as applicable, shall prepare and maintain in a timely manner a record for each of his or her clients which:

(a) Sets forth his or her assessment of the problems of the client, plan of action for the client, course of treatment for the client and progress notes regarding the course of treatment of the client; and

(b) Includes copies of other relevant documentation, including, without limitation:

(1) All documents relating to the informed consent given by the client;

(2) All documents relating to the release of information regarding the client; and

(3) All other legal documents regarding the client.

↪ As used in this subsection, “assessment” means an evaluation of the impairment in the functioning of a client that is based upon comprehensive information about the client.

13. Shall complete and submit any reports required by this chapter and chapter 641A of NRS, or pursuant to any rule, order or instruction of a court of competent jurisdiction, in a timely manner.

14. Shall comply with the provisions of this chapter and chapter 641A of NRS and all other applicable federal laws and regulations.

15. Shall not authorize a person under the supervision of the marriage and family therapist or clinical professional counselor to perform services that are outside of the scope of the license, *endorsement*, training or experience of the person performing the services, or allow such a person to hold himself or herself out as having expertise in a field or activity in which that person is not qualified.

16. Shall notify the Board in writing within 10 days after:

(a) An action is taken against any license, certification, registration or other credential held by the marriage and family therapist, clinical professional counselor or intern that was issued by another state or territory of the United States;

(b) A criminal charge is filed against the marriage and family therapist, clinical professional counselor or intern;

(c) The marriage and family therapist, clinical professional counselor or intern is convicted of a criminal offense, other than a traffic offense which is a misdemeanor that does not involve alcohol or controlled substances;

(d) A civil action, including, without limitation, an action for malpractice, is filed against the marriage and family therapist, clinical professional counselor or intern; or

(e) A settlement or judgment is made in any civil action, including, without limitation, an action for malpractice, in any case filed against the marriage and family therapist, clinical professional counselor or intern for any act relating to the practice of marriage and family therapy or the practice of clinical professional counseling, as applicable.

Sec. 7. NAC 641A.256 is hereby amended to read as follows:

641A.256 1. For the purposes of subsection 7 of NRS 641A.310, the Board will interpret the term “unprofessional conduct” to mean a lack of knowledge, skill or ability in discharging a professional obligation, and to include, without limitation, malpractice and gross negligence.

2. The Board will consider the following acts by a marriage and family therapist, clinical professional counselor or intern to constitute unprofessional conduct:

(a) Performing services relating to the practice of marriage and family therapy or the practice of clinical professional counseling as an intern outside the scope of an approved plan of internship.

(b) Performing services relating to the practice of marriage and family therapy or the practice of clinical professional counseling as a marriage and family therapist, clinical professional counselor or intern under a license *or endorsement* that has lapsed or been deactivated.

(c) Failing to cooperate with any investigation of a complaint filed against the marriage and family therapist, clinical professional counselor or intern, including, without limitation, denying or failing to cooperate with a request for records made by the Board.

3. As used in this section:

(a) “Gross negligence” means conduct in the practice of marriage and family therapy or the practice of clinical professional counseling which represents an extreme departure from the

standard of care required from a marriage and family therapist, clinical professional counselor or intern under the circumstances.

(b) “Malpractice” means conduct in the practice of marriage and family therapy or the practice of clinical professional counseling which falls below the standard of care required from a marriage and family therapist, clinical professional counselor or intern under the circumstances.

Sec. 8. NAC 641A.258 is hereby amended to read as follows:

641A.258 1. Any violation of this chapter or chapter 641A of NRS by a marriage and family therapist, clinical professional counselor or intern constitutes unprofessional conduct and subjects the marriage and family therapist, clinical professional counselor or intern to disciplinary action by the Board.

2. If a marriage and family therapist, clinical professional counselor or intern violates any provision of this chapter or chapter 641A of NRS or engages in any other unprofessional conduct while his or her license *or endorsement* is in effect, the Board will take disciplinary action against the marriage and family therapist, clinical professional counselor or intern, including, without limitation, taking action against the marriage and family therapist, clinical professional counselor or intern after his or her license *or endorsement* has expired or been suspended.

3. If a board or entity in this State or in another state which has issued a license, certificate, registration or other credential to a marriage and family therapist, clinical professional counselor or intern for the practice of marriage and family therapy, the practice of clinical professional counseling or practice in a related field revokes or suspends the license, certificate, registration or other credential, or takes any other disciplinary action against the marriage and family therapist, clinical professional counselor or intern, the revocation, suspension or disciplinary

action is a ground for disciplinary action by the Board against the marriage and family therapist, clinical professional counselor or intern for unprofessional conduct.

4. The failure of a marriage and family therapist, clinical professional counselor or intern to comply with a stipulation, agreement, advisory opinion or order issued by the Board constitutes unprofessional conduct and is a ground for disciplinary action by the Board against the marriage and family therapist, clinical professional counselor or intern.

5. As used in this section, “related field” means a field related to the social sciences or the study of the human mind and mental illness, including, without limitation, social work, alcohol and drug abuse counseling, psychology, psychiatry, nursing or medicine.

Sec. 9. NAC 641A.306 is hereby amended to read as follows:

641A.306 “Applicant” means a person who applies for any privilege, license, *endorsement* or authority from the Board.

Sec. 10. NAC 641A.441 is hereby amended to read as follows:

641A.441 1. During an investigation of an informal complaint, the staff or investigator, if any, may demand that a respondent produce his or her records or other evidence for inspection or copying, with or without prior notice to the respondent and with or without a subpoena. A respondent shall not deny any such request for records or other evidence if the record or other evidence is not subject to the provisions of 42 C.F.R. Part 2.

2. If the respondent initially refuses or fails to cooperate with a request for records in violation of this section, the Board may immediately suspend his or her license *or endorsement, if applicable*, until the respondent complies with the request for records or other evidence.

3. If the respondent continues to refuse or fail to cooperate with a request for records or other evidence in violation of this section after the Board has suspended his or her license *or*

endorsement, if applicable, pursuant to subsection 2, the Board may take such further disciplinary action against the respondent as the Board determines necessary.

Sec. 11. NAC 641A.595 is hereby amended to read as follows:

641A.595 The Board may hold an informal hearing to:

1. Mediate problems;
2. Discuss factual or legal questions relating to the propriety of certain conduct;
3. Discuss certain conduct and warn holders of licenses *and endorsements* that engaging in the conduct would be in violation of law or the Board's regulations; or
4. Determine the appropriateness of holding a formal hearing on any matter.