

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

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#### Authority

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

#### Source

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

### GENERAL PROVISIONS

#### § 49.1. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A degree in any applied behavioral science that includes a practicum or internship and meets any five of the educational requirements in § 49.2(1)—(8).

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

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

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

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

(i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.

(iii) Sexual invitations.

(iv) Soliciting or accepting a date from a client/patient.

(v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed professional counselor.

(vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

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

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

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

**Authority**

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

**Source**

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

**Cross References**

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

**§ 49.2. Educational requirements.**

Educational requirements are as follows:

(1) *Human growth and development*—(2 semester or 3 quarter hours) studies that provide an understanding of the nature and needs of individuals at all developmental stages.

(2) *Social and cultural foundations*—(2 semester or 3 quarter hours) studies that provide an understanding of issues and trends in a multicultural and diverse society.

(3) *Helping relationships*—(2 semester or 3 quarter hours) studies that provide an understanding of counseling and consultation processes.

(4) *Group work*—(2 semester or 3 quarter hours) studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills and other group approaches.

(5) *Career and lifestyle development*—(2 semester or 3 quarter hours) studies that provide an understanding of career development and related life factors.

(6) *Appraisal*—(2 semester or 3 quarter hours) studies that provide an understanding of individual and group approaches to assessment and evaluation.

(7) *Research and program evaluation*—(2 semester or 3 quarter hours) studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research.

(8) *Professional orientation*—(2 semester or 3 quarter hours) studies that provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards and credentialing.

(9) *Clinical instruction*—(Includes 100 clock hours of supervised practicum experience and 600 clock hours of supervised internship experience). The supervised internship experience shall begin after completion of the supervised practicum experience. Until March 2, 2007, this requirement may be satisfied by completion of a total of 6 semester hours or 9 quarter hours of practicum/internship experience.

**Cross References**

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

**§ 49.3. Qualifications for supervisors.**

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

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

**Cross References**

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

**§ 49.4. Applicability of general provisions in Chapter 47.**

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

**Source**

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

**LICENSURE**

**§ 49.11. Licensure examination.**

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

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

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

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

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

#### **Cross References**

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

### **§ 49.12. General qualifications for licensure.**

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

(1) The applicant is of good moral character.

(2) The applicant has not been convicted of a felony, which shall include a judgment, an admission of guilt or a plea of nolo contendere, under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or of an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act, unless the following apply:

(i) At least 10 years have elapsed from the date of conviction.

(ii) The applicant satisfactorily demonstrates to the Board that the applicant has made significant progress in personal rehabilitation since the conviction, so that licensure of the applicant would not be expected to create a substantial risk of harm to the health and safety of the applicant's clients or the public or a substantial risk of further criminal violations.

(3) The applicant has submitted an application for licensure on forms furnished by the Board. The application for licensure may be obtained by contacting the Board by mail at: State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, (717) 783-1389 or by e-mail at: socialwo@pados.dos.state.pa.us.

(4) The applicant has submitted the application licensure fee required by the Board, by check or money order, payable to the "Commonwealth of Pennsylvania."

(5) The applicant has submitted two certificates of recommendation on forms furnished by the Board.

(6) The applicant has submitted an affirmation signed by the applicant verifying the information on the application.

#### **Cross References**

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

**§ 49.13. Licensed professional counselor.**

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

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

(2) Passed the examination required by § 49.11 (relating to licensure examination).

(3) Successfully met one of the following education requirements:

(i) By March 2, 2007, has successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling as defined in § 49.1 (relating to definitions) including one of the following:

(A) A master's degree in professional counseling from an accredited education institution.

(B) A master's degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.

(ii) Has successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling as defined in § 49.1 including one of the following:

(A) A 48 semester hour or 72 quarter hour master's degree in professional counseling from an accredited education institution.

(B) A 48 semester hour or 72 quarter hour master's degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.

(iii) Holds a doctoral degree in counseling from an accredited educational institution.

(iv) Holds a doctoral degree in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited education institution.

(4) Has met the following experience requirements:

(i) Individuals who met the educational requirements of paragraph (3)(i) or (ii), shall have completed at least 3 years or 3,600 hours of supervised clinical experience meeting the criteria in subsection (b), obtained after the completion of 48 semester hours or 72 quarter hours of graduate coursework. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 49.1 and § 49.3 (relating to qualifications for supervisors).

(ii) Individuals who meet the educational requirements of paragraph (3)(iii) or (iv) shall have completed at least 2 years or 2,400 hours of super-

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) The supervised clinical experience shall be completed in no less than 2 years and no more than 6 years, except that no less than 600 hours and no more than 1,800 hours may be credited in any 12 month period.

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

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

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

#### Cross References

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

### § 49.14. Standards for supervisors.

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

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

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

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

(i) If during the period of supervision, the supervisor's license is suspended or revoked, the supervisor shall immediately notify the supervisee

and immediately cease supervision. Credit will be given for hours completed prior to the disciplinary action.

(ii) The supervisee shall obtain a new supervisor to complete the required experience.

(4) The supervisor shall be responsible for ensuring that the requirements of § 49.13(b) are met.

(5) The supervisor shall be accessible to the supervisee for consultation.

(6) The supervisor shall be empowered to recommend the interruption or termination of the supervisee's activities in providing services to a client/patient and, if necessary, to terminate the supervisory relationship. Hours accumulated for activities not approved by the supervisor will not count towards satisfying the 3,600 hours of supervised experience.

(7) The supervisor shall ensure that the supervisee's status as a supervisee is made known to the supervisee's patients, and also ensure that the supervisee has obtained written permission from each patient to discuss his case with the supervisor.

(8) The supervisor shall establish objectives to be achieved by the supervisee during supervision.

(9) The supervisor shall review issues of practice and ethics with the supervisee.

(10) The supervisor shall maintain notes or records of scheduled supervisory sessions and provide these records to the Board upon request.

(11) The supervisor shall observe client/patient sessions of the supervisee or review recordings of these sessions.

(12) In supervisory meetings, the supervisor shall discuss the supervisee's level of work—for example, the supervisee's areas of competence and areas of needed improvement.

(13) The supervisor shall provide the supervisee with recommendations bearing on further professional development, professional study and skills necessary for independent practice.

(14) The supervisor shall prepare written evaluations or reports of progress which shall delineate the supervisee's strengths and weaknesses. These evaluations or reports shall be discussed with the supervisee on at least a quarterly basis.

(15) The supervisor shall encourage the supervisee to work with professionals in other disciplines as indicated by the needs of each client/patient and shall periodically observe these cooperative encounters.

(16) The supervisor shall encourage the supervisee to access multidisciplinary consultation, as necessary.

#### **Cross References**

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

**§ 49.15. Exemption from licensure examination.**

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

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

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

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

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

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

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

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

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

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

#### Source

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

#### Notes of Decisions

##### *Delegation; Vagueness*

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

#### **§ 49.16. Application for licensure by reciprocity.**

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

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

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

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

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

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

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

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

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

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

(c) *Guidelines.*

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

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

(i) Whether a primary purpose of an individual or entity is to render a program of psychological, social or other therapies on a planned and regularly scheduled basis to assist individuals to deal with patterns of drug and alcohol use, abuse or dependency.

(ii) Whether an individual or entity publicly advertises or promotes itself as providing a program of distinct drug and alcohol services.

(iii) Whether an individual or entity employs staff who specialize in the provision of drug and alcohol services.

(2) If a facility meets one or more of the criteria in paragraph (1), a license may be required. The Department of Health will assess the circumstances and make a fact specific, case-by-case determination whether a license is necessary. This policy does not apply to substance abuse services that are being provided by an individual licensed professional counselor that are compatible with the practitioner’s education and professional competence.

**Source**

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

**SEXUAL MISCONDUCT**

**§ 49.21. Prohibited conduct.**

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

**Source**

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

**Cross References**

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

**§ 49.22. Former sexual partners as clients/patients.**

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

**Source**

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

**Cross References**

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

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

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

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

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

**Source**

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

**Cross References**

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

**§ 49.24. Disciplinary proceedings.**

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

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

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

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

**Source**

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

**§ 49.25. Impaired professional program.**

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

**Source**

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

**CONTINUING EDUCATION**

**§ 49.31. Definitions.**

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

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

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

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

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

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**Source**

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

**§ 49.32. Requirement for biennial renewal.**

For 2009 renewals and thereafter, the Board will require, as a condition of biennial renewal of a professional counselor's license, the completion during the preceding biennium of 30 clock hours of continuing education in acceptable courses and programs offered by approved providers which shall include at least 3 clock hours in ethical issues. Up to 20 clock hours may be obtained by home study. Excess clock hours may not be carried over to the next biennium.

**Source**

The provisions of this § 49.32 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

**Cross References**

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

**§ 49.33. Acceptable continuing education courses and programs.**

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

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

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

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

**Source**

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

**Cross References**

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

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

(a) An agency, organization, institution, association, center or individual seeking to offer one organized course or program may apply to the Board as a

provider by filing an application, along with a fee of \$45, at least 90 days before the date the course or program commences.

(b) The application must include the following information:

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

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

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

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

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

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

#### Source

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

#### Cross References

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

**§ 49.35. Standards for courses and programs.**

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

- (1) Subject matter pertaining to the enhancement of the professional counselor's knowledge and practice skills related to helping people achieve adequate and productive personal, interpersonal and social adjustments in their individual lives, in their families and in their community.
- (2) An established mechanism measuring the quality of the course or program being offered.
- (3) Established criteria for selecting and evaluating faculty or source material.
- (4) Established criteria for the evaluation of each course or program upon completion.
- (5) A minimum total duration of at least 2 clock hours; however, the hours need not be contiguous.

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

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

**Source**

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

**Cross References**

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

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

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

- (1) Graduate and undergraduate programs accredited by the Council on Social Work Education.
- (2) The Association of Social Work Boards.
- (3) Accredited colleges and universities (graduate level courses and continuing education programs).

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

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

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

**Source**

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

**Cross References**

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

**§ 49.37. Other sources of continuing education.**

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

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

(2) First-time experience as a teacher.

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

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

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

**Source**

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

**Cross References**

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

**§ 49.38. Reporting by licensee of hours spent in continuing education.**

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

(b) A licensee selected for audit shall provide information to document the licensee's certification. The information must include the following:

- (1) The date attended.
- (2) The clock hours claimed.
- (3) The title of course or program and description of content.
- (4) The school, hospital, medical center or organization which sponsored the course or program.
- (5) The instructor.
- (6) The location of course or program.
- (7) The Board approval number assigned to the course or program unless the provider is preapproved under § 49.36(a) (relating to preapproved providers of continuing education courses and programs for professional counselors).

**Source**

The provisions of this § 49.38 adopted December 22, 2006, effective December 23, 2006, 36 Pa.B. 7841.

**Cross References**

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

**§ 49.39. Retention of records.**

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

**Source**

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

**Cross References**

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

**§ 49.40. Exemption and waiver.**

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

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

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military service or other demonstrated hardship. The Board will send written notification of its approval or denial of a waiver or extension request.

**Source**

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

**Cross References**

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

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

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

**Source**

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

**Cross References**

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

**§ 49.42. Disciplinary action authorized.**

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

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

**Source**

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

**Cross References**

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

**CHILD ABUSE REPORTING REQUIREMENTS**

**§ 49.51. Definitions relating to child abuse reporting requirements.**

The following words and terms, when used in this section and §§ 49.52—49.57 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

*Child abuse*—A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

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

*Individual residing in the same home as the child*—An individual who is 14 years of age or older and who resides in the same home as the child.

*Perpetrator*—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

*Person responsible for the child's welfare*—

(i) A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

(ii) The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

*Recent acts or omissions*—Acts or omissions committed within 2 years of the date of the report to the Department of Public Welfare or county agency.

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

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

*Serious physical injury*—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.

*Sexual abuse or exploitation*—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to

engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

**Authority**

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

**Source**

The provisions of this § 49.51 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022.

**§ 49.52. Suspected child abuse—mandated reporting requirements.**

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed professional counselors who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare and to the appropriate county agency when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Licensed professional counselors who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensed professional counselor, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

(c) *Reporting procedure.* Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made to the appropriate county agency within 48 hours after the oral report is made by telephone and must

contain, at a minimum, the information required by the Department of Public Welfare in 55 Pa. Code § 3490.18 (relating to filing of a written report by a required reporter).

**Authority**

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

**Source**

The provisions of this § 49.52 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022.

**Cross References**

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

**§ 49.53. Photographs, medical tests and X-rays of child subject to report.**

A licensed professional counselor may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

**Authority**

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

**Source**

The provisions of this § 49.53 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022.

**Cross References**

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

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

A licensed professional counselor who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner of

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the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

**Authority**

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

**Source**

The provisions of this § 49.54 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022.

**Cross References**

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

**§ 49.55. Immunity from liability.**

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a licensed professional counselor who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the licensed professional counselor's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensed professional counselor shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensed professional counselor's actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs.

**Authority**

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

**Source**

The provisions of this § 49.55 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022.

**Cross References**

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

**§ 49.56. Confidentiality—waived.**

To protect children from abuse, the reporting requirements of §§ 49.52—49.54 (relating to suspected child abuse-mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse-mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply.

**Authority**

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

**Source**

The provisions of this § 49.56 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022.

**Cross References**

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

**§ 49.57. Noncompliance.**

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

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a licensed professional counselor who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

**Authority**

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

**Source**

The provisions of this § 49.57 adopted November 17, 2006, effective November 18, 2006, 36 Pa.B. 7022.

**Cross References**

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

[Next page is 51-1.]