

COUNSELING FIELD PRACTICUM

CNE 686

SHSU

COURSE PACKET

FIELD PRACTICUM COUNSELING STUDENT:

This "Counseling Field Practicum Course Packet" is for your use at the first class meeting and during the semester. However, prior to the first class meeting, you should have completed the first five items on the "Checklist." Please contact your Field Practicum instructor if you have any questions

COUNSELING FIELD PRACTICUM

WAIVER OF LIABILITY

In consideration of being allowed to participate in the counseling field practicum course, the undersigned student agrees to waive all claims for liability against Sam Houston State University, the Board of Regents, and the Texas State University System, including their respective officers, agents, servants, and employees. The conditions of the waiver include:

1. The undersigned agrees to hold harmless the above-named parties from any and all liability arising out of or in any way predicated upon acts or omissions resulting in loss or damage to property, injury, or death of the undersigned which may occur in connection with the above-designated course, regardless of whether or not such loss, damage, injury, or death arises in whole or in part from the negligence of SHSU or its employees.
2. The undersigned agrees to hold harmless the above-named parties from any and all liability arising out of or in any way predicated upon acts or omissions in the use of professional observations and/or findings in regard to the student's personal experiences within the scope of the counseling field practicum activities as communicated and discussed within the classroom situation.
3. The undersigned agrees to hold harmless the above-named parties from any and all liability arising out of or in any way predicated upon acts or omissions on the part of the co-trainer. Co-trainer represents the agency, institution, or facility outside Sam Houston State University that accepts the responsibility of providing training opportunities for a counseling field practicum.

Counseling Student

University Supervisor

Date

COUNSELING FIELD PRACTICUM

PROOF OF LIABILITY COVERAGE

I am aware that neither Sam Houston State University nor the Department of Educational Leadership and Counseling will provide or pay for my legal counsel in the event I am sued for malpractice while engaged in the activities pertinent to my counseling field practicum, nor will I be compensated by the above-named parties in the event I am found liable. I hereby agree to submit proof of malpractice insurance or accept full personal responsibility for my actions and legal defense in the event of such a suit, and will hold the above-named parties harmless in the event I am sued and/or found liable.

Counseling Student

Date

Witness

Witness

=====

Insurance Company _____

Coverage Amount _____

I have seen proof of malpractice insurance as indicated above.

University Supervisor

Date

CNE 686 FIELD PRACTICUM - SUPERVISOR DATA

NAME:

AGENCY/SITE:

ADDRESS:

PHONE NUMBER:

DEGREES:

AREA(S) OF SPECIALIZATION:

YEARS IN THE MENTAL HEALTH FIELD:

LICENSE(S) HELD:
NUMBERS:

PLEASE ATTACH A PHOTOCOPY OF THE SUPERVISOR'S LICENSE (S) TO THIS SHEET.

COUNSELING FIELD PRACTICUM

PERSONAL DATA FORM

NAME : _____

ADDRESS : _____

CITY/STATE : _____

HOME PHONE : _____ WORK PHONE : _____

CO-TRAINER : _____

ADDRESS : _____

CITY/STATE : _____

PHONE : _____

CO-TRAINER ADMINISTRATOR : _____

OFF-CAMPUS SUPERVISOR : _____

TYPE AND NUMBER OF LICENSE : _____

PHONE : _____

=====

DIRECTIONS/MAP TO CO-TRAINER SITE:

FIELD PRACTICUM - MID-TERM EVALUATION

INTERN _____ **DATE** _____

IDENTIFIED STRENGTHS OF THE INTERN:

- 1.
- 2.
- 3.

IDENTIFIED WEAKNESSES OF THE INTERN:

- 1.
- 2.
- 3.

PLAN FOR CREATING NEW PROFESSIONAL ACTIVITIES FOR THE REMAINDER OF THE SEMESTER:

PLAN FOR REMEDIATION (#2 WEAKNESSES):

CHANGES PLANNED IN SUPERVISION (1F ANY):

Signature of Intern Date

Signature of Supervisor Date

COUNSELING FIELD PRACTICUM
EVALUATION FORM

COUNSELING STUDENT: _____

The Off-Campus Supervisor is requested to complete this form and confer with the counseling student midterm and at the end of the term. The form should be sent to the University Supervisor via mail or the counseling student.

Circle the number which best describes student performance in each category. If a category is not applicable, indicate so by placing "n/a" immediately next to the category number.

	<u>Requires Assistance</u>		<u>Appropriate Acceptable Performance</u>		<u>Exceptional Performance</u>	
GENERAL SUPERVISION ISSUES						
1. Demonstrates time, energy, and personal commitment in becoming an exemplary counselor	1	2	3	4	5	6
2. Accepts and uses constructive criticism to enhance self-development and counseling skills	1	2	3	4	5	6
3. Engages in open, comfortable, and clear communication with peers and supervisor	1	2	3	4	5	6
4. Recognizes own competencies and skills and shares these with peers and supervisor	1	2	3	4	5	6
5. Recognizes own deficiencies and actively works to overcome them with peers and supervisor	1	2	3	4	5	6
6. Completes case reports and records clearly, punctually, and conscientiously	1	2	3	4	5	6
COUNSELING PROCESS						
7. Researches the referral prior to the first interview.	1	2	3	4	5	6
8. Keeps appointments on time	1	2	3	4	5	6
9. Begins the interview smoothly	1	2	3	4	5	6
10. Explains the nature and objectives of counseling when appropriate	1	2	3	4	5	6
11. Is relaxed and comfortable in the interview process	1	2	3	4	5	6
12. Communicates interest in and acceptance of the client	1	2	3	4	5	6

13. Facilitates client expression of concerns and feelings	1	2	3	4	5	6
14. Focuses on the content of the client's problem	1	2	3	4	5	6
15. Recognizes and resists manipulation by the client	1	2	3	4	5	6
16. Recognizes and addresses positive affect of the client	1	2	3	4	5	6
17. Recognizes and addresses negative affect of the client	1	2	3	4	5	6
18. Is spontaneous in the interview	1	2	3	4	5	6
19. Uses silence effectively	1	2	3	4	5	6
20. Is aware of own feelings in the counseling session	1	2	3	4	5	6
21. Communicates own feelings to the client when appropriate	1	2	3	4	5	6
22. Recognizes and skillfully interprets the client's covert messages	1	2	3	4	5	6
23. Facilitates realistic goal/setting with the client	1	2	3	4	5	6
24. Encourages appropriate action-step planning with the client	1	2	3	4	5	6
25. Employs judgment in the timing and use of different techniques	1	2	3	4	5	6
26. Completes scheduled evaluation of goals, action-steps, and related reports during counseling	1	2	3	4	5	6
27. Utilizes appropriate assessment/diagnostic techniques when appropriate (may include OSM IV)	1	2	3	4	5	6
28. Administers and interprets tests appropriately	1	2	3	4	5	6
29. Closes the interview smoothly	1	2	3	4	5	6
CONCEPTUALIZATION PROCESS						
30. Focuses on specific behaviors and their consequences	1	2	3	4	5	6
31. Recognizes and pursues incongruencies/inconsistent information	1	2	3	4	5	6
32. Uses relevant case data in planning both immediate and long-range goals	1	2	3	4	5	6
33. Uses relevant case data in considering various strategies						

and implications	1	2	3	4	5	6
34.Bases decisions on a theoretically sound and consistent rationale regarding human behavior	1	2	3	4	5	6
35.Is perceptive in evaluating the effects of own counseling behaviors	1	2	3	4	5	6
36.Demonstrates ethical behavior in counseling activity and case management	1	2	3	4	5	6

Additional Comments:

Off-Campus Supervisor

Date

My signature indicates that I have read the above report and have discussed the content with my supervisor. It does not necessarily indicate that I agree with the report in part or in whole.

Counseling Student

Date

(Adapted from: Boylan, Malley, & Scott: 1988)

COUNSELING FIELD PRACTICUM

CHECKLIST

COUNSELING STUDENT: _____

- _____ 1. Completed required prerequisite courses.
- _____ 2. Obtained and read field practicum packet.
- _____ 3. Arranged Co-Trainer site.
- _____ 4. Obtained an Off-Campus Supervisor.
- _____ 5. Obtained malpractice insurance.
- _____ 6. Contract signed by all parties and submitted to University Supervisor.
- _____ 7. Activity Plan completed, signed, and submitted to University Supervisor.
- _____ 8. Personal Data Form, Waiver of Liability, and Proof of Liability completed and submitted to University Supervisor.
- _____ 9. Visit between University Supervisor and Off-Campus Supervisor completed.
- _____ 10. Midterm Evaluation Form discussed, completed, signed, and submitted to University Supervisor.
- _____ 11. On-site visits by University Supervisor completed.
- _____ 12. End-of-Term Evaluation Form discussed, completed, signed, and submitted to University Supervisor.
- _____ 13. Counseling log (with necessary supportive materials) submitted to University Supervisor.
- _____ 14. End-of-Term Activity Summary completed, signed, and submitted to University Supervisor.
- _____ 15. All on-campus course requirements completed.
- _____ 16. LPC Temporary Licensure forms completed and mailed to the LPC Board.

COUNSELING FIELD PRACTICUM
END-OF-TERM ACTIVITY SUMMARY

Counseling Student: _____

<u>ACTIVITY</u>	<u>NUMBER OF HOURS</u>
Individual Counseling	_____
Group Counseling	_____
Group Guidance	_____
Testing/Assessment	_____
professional Development (includes classtime)	_____
Consultation (includes supervision)	_____
Other Counseling-Related Activities	_____
	TOTAL HOURS: _____
	TOTAL DIRECT CONTACT HOURS: _____

Off-Campus Supervisor

Date

COUNSELING FIELD PRACTICUM

CNE 686

SHSU

CONTRACT

TO: Potential SHSU Counseling Field Practicum Co-Trainer (Site Administrator) and/or Off-Campus Supervisor

The bearer of this packet is a graduate student in the Counseling Program at Sam Houston State University who is interested in having you as a Co-Trainer or as an Off-Campus Supervisor for a designated field practicum experience. One of the requirements of the SHSU Counseling Program is a one-semester field practicum experience of at least 600 hours in which the student is under the supervision of a licensed professional counselor, licensed psychologist, psychiatrist, licensed master's social worker, or licensed marriage and family therapist.

It would be appreciated if you would read the attached material, which defines the expectations for the SHSU counseling field practicum experience. After interviewing the counseling student, please indicate whether or not you will accept the student either as a field practicum counseling student or as a field practicum counseling supervisee.

Thank you for your consideration in this matter.

University Supervisor, Counseling Field Practicum

SHSU COUNSELING FIELD PRACTICUM RESPONSIBILITY DESIGNATIONS

Field Practicum Co-Trainer (Site Administrator)

The Co-Trainer is expected to work with the counseling student to plan specific counseling and guidance activities and to make task assignments as appropriate. In addition to ensuring that learning opportunities are available and appropriate for the counseling student, the Co-Trainer also is expected to use the services of the counseling student to enhance the effectiveness of the program within which the student is working.

In order for a counseling student to enroll in the counseling field practicum, 40 hours per week of counseling activities should be available at the field practicum site. Of the total hours, at least half should be direct client contact hours; the remaining hours may include other counseling-related activities.

The primary focus of the field experience should be on individual and group counseling, as pertinent to the clientele and setting. The counseling student may administer and interpret tests in working with clients; however, this activity must not constitute a major part of the counseling student's activities.

When possible and appropriate, the counseling student should serve in a consultative capacity with professional staff members and non-professional persons (e.g., significant others in client's life) relative to the field practicum responsibilities. Also, when possible, the counseling student should participate in professional development activities (e.g., seminars/workshops/conferences) which deal with topics of concern to professional counselors.

Off-Campus Supervisor

The Off-Campus Supervisor is expected to work with the counseling intern in monitoring and evaluating specific counseling and guidance activities, to make skill development assignments, to serve as a resource specialist to the counseling student, and to critique and evaluate the work of the counseling student on a frequent and regular basis. The basic responsibilities of the Off-Campus Supervisor are: (1) one hour of supervision per week, (2) signed approval of the "Counseling Field Practicum Activity Plan," (3) midterm written evaluation via the "Counseling Field Practicum Evaluation Form," (4) end-of-term written evaluation via the "Counseling Field Practicum Evaluation Form," and (5) signed verification of "Counseling Field Practicum Activity Summary."

University Supervisor

The University Supervisor is responsible for ensuring that general field practicum requirements are being met and for working with the Site

Administrator and Off-Campus Supervisor in providing a meaningful and effective field practicum experience. The University Supervisor serves as a professional resource agent, both during on-campus contact activities and during on-site visits. The University Supervisor is ultimately responsible for certifying that at least minimum field practicum requirements have been met.

Field Practicum Counseling Student

The Field Practicum Counseling Student must be enrolled in CNE 686 of the Counseling Program at Sam Houston State University. The student is responsible for: (1) locating a Field Practicum Co-Trainer; (2) obtaining an Off-Campus Supervisor; (3) establishing the basic counseling activities for the semester with the Co-Trainer and Off-Campus Supervisor; (4) being prepared for the on-site visits of the University Field Practicum Supervisor; (5) participating in the on-campus meetings for the course; and (6) fulfilling the course requirements as indicated by the University Supervisor.

COUNSELING PROGRAM
SAM HOUSTON STATE UNIVERSITY

FIELD EXPERIENCE CONTRACT

All information is to be typewritten and completed in full, i.e. no acronyms or abbreviations.

This field experience agreement between the Counseling Program, Sam Houston State University, and the designated Field Experience Site, _____, clarifies the joint and separate responsibilities of each for the selection and field experiences of Sam Houston State University Counseling Program students during the specified academic term.

The _____, located at _____, _____, Texas, as the participating Field Experience Site, will:

Provide field training and on-site supervision as deemed appropriate by its staff at times to be agreed upon by the Site administration and the University student for approximately _____ hours per week, beginning _____ (date) and ending _____ (date).

Provide such cases and student/client contacts as Site administration and the Counseling Program supervisor deem appropriate for the student's skill level and the time allotted for the field experience.

Provide the use of existing office space, privacy for counseling, use of available equipment, and usual office supplies and clerical assistance necessary to the learning task.

Inform the Counseling Program of changes in Site policy, procedures, and personnel that might affect the field experience.

The Sam Houston State University Counseling Program, as the participating Field Experience university, will:

Participate with the Site in the screening and selection of the student counselors, including sharing appropriate requested information regarding the student's background experience, educational accomplishments, and needs.

Honor a request by the Site administration that the student be relieved of responsibilities when and if the student is not capable of functioning at the required level or if, for any reason, the student is found unsuitable for assignment at the Site.

Coordinate two sources of supervision of the student's experiences according to the policy of the Counseling Program: (1) supervision by the University supervisor and (2) supervision by a designated licensed mental health professional either at the Field Experience Site or in the community.

Site Administrator

Date

Off-Campus Supervisor

Date

University Department Chair

Date

University Supervisor

Date

University Student

Date

Dean, College of Education
and Applied Sciences

Date

**22 TEXAS ADMINISTRATIVE CODE, CHAPTER 681
(BOARD RULES)**

Texas State Board of Examiners of Professional Counselors
1100 West 49th Street
Austin, Texas 78756-3183
512/834-6658

Amended March 2, 1998
§681.64, §681.81, §681.82, §681.92, §681.94

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Texas State Board of Examiners of Professional Counselors
22 Texas Administrative Code, Chapter 681
(Board Rules)

SUBCHAPTER A. THE BOARD

§681.1 Purpose and Scope

(a) The purpose of this subchapter is to implement the provisions in the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, as amended, concerning the Texas State Board of Examiners of Professional Counselors (board).

(b) The scope of this subchapter is that it covers the organization, administration, and other general procedures and policies concerning the board's operation.

§681.2 Definitions

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

Act - The Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, as amended.

Accredited universities - Universities as reported by the American Association of Collegiate Registrars and Admission Officers.

APA - The Administrative Procedure Act, Government Code, Chapter 2001.

Art Therapy - The practice of professional counseling through services that use art media to promote perceptive, intuitive, affective, and expressive experiences that alleviate distress and emotional, behavioral, or social impairment.

Art therapy intern - An LPC or an LPC intern holding a temporary license with an art therapy specialty designation.

Authorized representative - An individual authorized to act on behalf

of a licensee as evidenced by a written power of attorney or the licensee's spouse.

Board - The Texas State Board of Examiners of Professional Counselors.

Client - A person who seeks or receives services from a licensee or from a person who is practicing counseling without a license, either because no license is required under the Act at the time of counseling or because the person has not obtained the license required by the Act.

LPC intern - A person who holds a temporary license to practice counseling.

Department - The Texas Department of Health.

Health care professional - A licensee or any other person licensed, certified, or registered by the State in a health related professional.

License - A regular, regular with art therapy specialty designation, provisional, or temporary license issued by the board unless the content of the rule indicates otherwise.

Licensee - A person who holds a regular, regular with art therapy specialty designation, provisional, or temporary license.

Recognized religious practitioner - A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination, church, sect or religious organization legally recognized under the Internal Revenue Code, §501(c)(3) and other individuals participating with them in pastoral counseling if:

(A) the counseling

activities are within the scope of the performance of their regular or specialized ministerial duties and are performed under the auspices of sponsorship of the legally recognized denomination, church, sect, religious organization or an integrated auxiliary of a church as defined in Federal Tax Regulations, 26 Code of Federal Regulations, §1.6033-2(g)(5)(I) (1982);

(B) the individual providing the service remains accountable to the established authority of that denomination, church, sect, religious organization or integrated auxiliary; and

(C) the person does not use the title of or hold himself or herself out as a professional counselor.

Supervisor - A person approved by the board as meeting the requirements set out in §681.83 of this title (relating to Supervisor Requirements), to supervise an LPC intern.

§681.3. Meetings.

(a) The Texas State Board of Examiners of Professional Counselors (board) shall hold at least two regular meetings and additional meetings as necessary during each fiscal year.

(b) The chairperson may call meetings after consultation with board members or by a majority of members so voting at a regular meeting.

(c) Meetings shall be announced and conducted under the provisions of the Texas Open Meetings Act, Texas Civil Statutes, the Government Code, Chapter 551.

§681.4. Transaction of Official Business.

(a) The Texas State Board of Examiners of professional Counselors (board) may transact official business only when in a legally constituted meeting with a quorum present. A quorum of the board necessary to conduct official business is five members.

(b) The board shall not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is pursuant to specific instructions of the board.

(c) Robert's Rules of Order Revised shall be the basis of parliamentary decisions except as otherwise provided in this chapter.

§681.5. Agendas

(a) The executive secretary shall be responsible for preparing and submitting an agenda to each member of the Texas State Board of Examiners of Professional Counselors (board) prior to each meeting which includes items requested by members, items required by law, and other matters of board business which have been approved for discussion by the chairperson.

(b) The official agenda of a meeting shall be filed with the Texas Secretary of State as required by law.

§681.6 Minutes

(a) The minutes of a Texas State Board of Examiners of Professional Counselors (board) meeting are official only when affixed with the original signatures of the chairperson and the executive secretary.

(b) Drafts of the minutes of each meeting shall be forwarded to each member of the board for review and comments or corrections prior to approval by the board.

(c) The official minutes of the board meetings shall be kept in the office of the executive secretary and shall be available to any person desiring to examine them.

§681.7 Elections

(a) At the meeting held nearest to August 31 of each year, the Texas State Board of Examiners of Professional Counselors (board) shall elect a vice-chairperson.

(b) A vacancy which occurs in the office of vice-chairperson may be filled at any regular meeting as required.

§681.8 Officers

(a) Chairperson.

(1) The chairperson shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or this chapter.

(2) The chairperson is authorized by the Texas State Board of Examiners of Professional Counselors (board) to make day-to-day minor decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board.

(b) Vice-chairperson.

(1) The vice-chairperson shall perform the duties of the chairperson in case of the absence or disability of the chairperson.

(2) In case the office of the chairperson becomes vacant, the vice-chairperson shall serve until a successor is appointed.

§681.9 Committees

(a) The Texas State Board of Examiners of Professional Counselors (board) or the chairperson may establish committees deemed necessary to carry out board responsibilities.

(b) The chairperson shall appoint members of the board to serve on

committees.

(c) The chairperson may appoint non-board members to serve as committee members on a consultant or voluntary basis subject to board approval.

(d) Committee chairpersons shall make regular reports to the board in interim written reports or at regular meetings.

(e) Committees may direct all reports or other materials to the executive secretary for distribution.

(f) Committees shall meet when called by the committee chairperson or when so directed by the board.

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

§681.10 Executive Secretary.

(a) The executive secretary of the Texas State Board of Examiners of Professional Counselors (board) shall be an employee of the Texas Department of Health (department) appointed by the Commissioner of Health, with the advice and consent of the board, as the administrator of board activities.

(b) The executive secretary shall keep the minutes of the meetings and proceedings of the board and shall be the custodian of the files and records of the board unless another custodian is designated by the board.

(c) The executive secretary shall exercise general supervision over persons employed in the administration of the Licensed Professional Counselor Act (Act). The executive secretary may delegate responsibilities to other staff members when appropriate.

(d) The executive secretary shall be responsible for the investigation of complaints and for the presentation of formal complaints.

(e) The executive secretary shall be responsible for all correspondence

for the board and obtain, assemble, or prepare reports and information that the board may direct, or as authorized or required by the department or other agency with appropriate statutory authority.

(f) The executive secretary shall have the responsibility of assembling and evaluating materials submitted by applicants for licensure. Determinations made by the executive secretary that propose denial of licensure are subject to the approval of the appropriate committee of the board or the board which shall make the final decision on the eligibility of the applicants.

(g) The executive secretary or the executive secretary's designated substitute may serve as the administrator of licensure examinations.

§681.11 Reimbursement for Expenses.

(a) A Texas State Board of Examiners of Professional Counselors (board) member is entitled to per diem and transportation expenses as provided by the latest General Appropriations Act.

(b) Payment to members of per diem and transportation expenses shall be on official state vouchers which have been approved by the executive secretary.

§681.12 Official Records of the Board.

(a) Records which are public may be reviewed by inspection or duplication, or both. Confidential records will not be made available.

(b) When any person's request would be 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.

(c) Applicable 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. The charge for copies shall be the same as set by the Texas Department of Health for copies.

(d) The rules of procedure for inspection and duplication of public records contained in the Texas Open Records Act shall apply to requests received by the Texas State Board of Examiners of Professional Counselors (board).

§681.13 Impartiality and Non-discrimination

(a) The Texas State Board of Examiners of Professional Counselors (board) shall make no decision in the discharge of its statutory authority with regard to any person's race, religion, color, sex, disability, or national origin.

(b) Any board member who is unable to be impartial in the determination of an applicant's eligibility for licensure or in a disciplinary action against a licensee shall so declare this to the board and shall not participate in any board proceedings involving that applicant or licensee.

§681.14 Applicants with Disabilities

(a) The Texas State Board of Examiners of Professional Counselors (board) shall comply with the Americans with Disabilities Act.

(b) Applicants with disabilities shall inform the board in advance of any special accommodations needed.

§681.15 License Certificate

(a) The Texas State Board of Examiners of Professional

Counselors (board) shall prepare and provide to each licensee a license certificate which contains the licensee's name and license number.

(b) Regular licenses and regular licenses with an art therapy specialty designation shall be signed by the board members and be affixed with the seal of the board.

(c) Temporary licenses shall be signed by the board chair and the executive secretary.

(d) Provisional licenses and provisional licenses with an art therapy specialty designation shall be signed by the executive secretary.

(e) Any license certificate or renewal card issued by the board remains the property of the board and must be surrendered to the board on demand.

§681.16 Registry

(a) Each year the Texas State Board of Examiners of Professional Counselors (board) shall publish a roster of licensees.

(b) The roster of licensees shall include, but not be limited to, the name, business addresses, and telephone numbers of current licensees.

(c) The board shall make a copy of the roster available to each licensee, and upon request, copies to other state agencies and the general public.

§681.17 Fees

(a) Fees are as follows:

(1) application and license - \$90;

(2) license and examination fee - \$110;

(3) temporary license extension fee - \$30;

(4) annual renewal fee - \$50;

(5) late renewal fee (when renewed after expiration date but or within 90 days but within one year of the expiration date) - \$110;

(6) license renewal penalty fee (must be paid along with renewal fee when license is renewed more than 90 days but within one year of the expiration date) - \$110;

(7) annual inactive status fee - \$25;

(8) license certificate or renewal card duplication or replacement fee - \$10;

(9) returned check fee - \$25; and

(10) art therapy specialty designation application fee - \$30 (in addition to any necessary application fees listed in paragraphs (1) - (10) of this subsection).

(b) Fees paid to the Texas State Board of Examiners of Professional Counselors (board) by applicants are not refundable except in accordance with §681.18 of this title (relating to Processing Procedures).

(c) Remittances submitted to the board in payment of a required fee must be in the form of a personal check, cashier's check, or money order.

§681.18 Processing Procedures

(a) Time periods. The Texas State Board of Examiners of Professional Counselors (board) shall comply with the following procedures in processing applications for a license and renewal of a regular license.

(1) The following periods of time shall apply from the date of receipt of an application until the date of issuance of a written notice that the application is complete and accepted for filing or that the application is deficient and additional specific information is required. A written notice stating that the application has been approved may be sent in lieu of the notice of acceptance of a completed application. The time periods are as follows: (A) letter of

acceptance of application - 20 working days; and

(B) letter of application deficiency - 20 working days.

(2) The following periods of time shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. The time periods for denial end on the day notice of the proposed decision is mailed to the applicant. The time periods are as follows:

(A) letter of approval for examination - 20 working days;

(B) initial letter of approval for a license - 180 working days; and

(C) letter of denial of a license - 180 working days.

(3) The period of time from the receipt of the application for renewal of a regular license until the renewal card is issued or written notice is given that the application is deficient and additional specific information is required shall be 10 working days. The regular license renewal may be issued in lieu of the notice of acceptance. The period of time from the receipt of the last item necessary to complete the application for renewal until issuance of the renewed license or notification of denial of renewal shall be 10 working days.

(b) Reimbursement of fees.

(1) In the event an application is not processed in the time periods state in subsection (a) of this section, the applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the executive secretary. If the executive secretary does not agree that the time period has been violated or finds that

good cause existed for exceeding the time period, the request will be denied.

(2) Good cause for exceeding the time period is considered to exist if the number of applications for a license or license renewal exceeds by 15% or more the number of applications processed in the same calendar quarter the preceding year; another public or private entity relied upon by the board in the application process caused the delay; or any other condition exists giving the board good cause for exceeding the time period.

(c) Appeal. If a request for reimbursement under subsection (b) of this section is denied by the executive secretary, the applicant may appeal to the chairperson of the board for a timely resolution of any dispute arising from a violation of the time periods. The applicant shall give written notice to the chairperson at the address of the board that he or she requests full reimbursement of all fees paid because his or her application was not processed within the applicable time period. The executive secretary shall submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time period. The chairperson shall provide written notice of the chair's decision to the applicant and the executive secretary. An appeal shall be decided in the applicant's favor if the applicable time period was exceeded and good cause was not established. If the appeal is decided in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.

(d) Contested cases. The time periods for contested cases related to the denial of a license or a license renewal are not included within the

time periods state in subsection (a) of this section. The time period for conducting a contested case hearing runs from the date the board office mails notice of the proposed denial and ends when the decision of the board is final and appealable. A hearing may be completed within six months, but may extend for a longer period of time depending on the particular circumstances of the hearing.

§681.19 Petition for the Adoption of a Rule.

(a) Purpose. The purpose of this section is to delineate the Texas State Board of Examiners of Professional Counselors (board) procedures for the submission, consideration, and disposition of a petition to the board to adopt a rule.

(b) Submission of the petition.

(1) Any person may petition the board to adopt a rule.

(2) The petition shall be in writing; shall state the petitioner's name, address, and phone number; and shall contain the following:

(A) a brief explanation of and justification for the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the public benefit anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.

(3) The petition shall be filed with the board office.

(4) The board office may determine the petition does not contain the information described in

paragraph (2) of this subsection and shall return the petition to the petitioner.

(c) Consideration and disposition of the petition.

(1) Except as otherwise provided in subsection (d) of this section, the executive secretary shall submit a completed petition to the board for consideration.

(2) Within 60 days after receipt of the petition, the board shall deny the petition or institute rule-making procedures in accordance with the Administrative Procedure Act, Texas Civil Statutes, The Government Code, Chapter 2001. The board may deny parts of the petition or institute rule-making procedures on parts of the petition.

(3) If the board denies the petition, the board shall give the petitioner written notice of the board's denial, including the board's reasons for the denial.

(4) If the board initiates rule-making procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

(d) Subsequent petitions to adopt the same or similar rules. All initial petitions for the adoption of a rule shall be presented to and decided by the board in accordance with the provisions of subsections (b) and (c) of this section. The board may refuse to consider a subsequent petition for the adoption of the same or similar rule submitted within six months after the date of an initial petition.

SUBCHAPTER B. AUTHORIZED COUNSELING METHODS AND PRACTICES

§681.26 Counseling Methods and Practices.

(a) Authorized counseling methods and practices may include

but are not restricted to the following:

(1) **individual counseling** which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies to achieve mental, emotional, physical, social, moral, and spiritual development and adjustment through the life span;

(2) **group counseling** which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies to achieve mental, emotional, physical, social, moral, educational, spiritual, and career development and adjustment through the life span;

(3) **marriage counseling** which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, affective and family systems methods and strategies to achieve resolution of problems associated with cohabitation and interdependence of adults living as couples;

(4) **family counseling** which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, affective and family systems methods and strategies with families to achieve mental, emotional, physical, moral, educational, spiritual, and career development and adjustment through the life span;

(5) **chemical dependency counseling** which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, affective and family systems methods and strategies, and 12-step methods to achieve abstinence from the addictive substances and behaviors by the client;

(6) **rehabilitation**

counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, affective and family systems methods and strategies to achieve adjustment to a disabling condition and to reintegrate the individual into the mainstream of society;

(7) **education counseling** which utilizes formal and informal counseling methods and assessments and appraisal instruments for the purpose of determining strength, weakness, mental condition, emotional stability, intellectual ability, interest, skill, aptitude, achievement, and other personal characteristics of individuals for the selection of and placement in educational settings, preschool through postdoctoral study;

(8) **career development counseling** which utilizes formal and informal counseling methods and appraisal instruments for the purpose of determining intellectual ability, interest, skill, aptitude, achievement, mental condition, emotional fitness, and other personal characteristics for occupational, vocational, and career selection and placement throughout the life span;

(9) **sexual issues counseling** which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies in the resolution of sexual disorders;

(10) **referral counseling** which utilizes the processes of evaluating and identifying needs of clients to determine the advisability of referral to other specialists, informing the client of such judgment and communicating as requested or deemed appropriate to such referral sources;

(11) **psychotherapy** which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral,

psycho-dynamic, and affective methods and strategies to assist clients in their efforts to recover from mental or emotional illness;

(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 as a part of the therapist's role in helping children overcome their social, emotional, and mental problems;

(13) **hypnotherapy** which utilizes the principles of hypnosis and post-hypnotic suggestion in the treatment of mental and emotional disorders and addictions;

(14) **expressive therapies** which utilize therapeutic modalities in the treatment of interpersonal, emotional or mental health issues, chemical dependency, or human developmental issues. These modalities may include music therapy, art therapy, dance or movement therapy, hippotherapy, or the use of other techniques employing animals in providing therapy as described previously;

(15) **biofeedback** which utilizes electronic equipment to monitor and provide feedback regarding an individual's physiological responses. The counselor who uses biofeedback must be able to prove academic preparation and supervision in the use of the equipment as a part of the counselor's academic program or the substantial equivalent provided through approved continuing education;

(16) **assessing and appraising** 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 clients'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 problems; and

(17) **consulting** which utilizes the application of specific principles and procedures in counseling to provide assistance in understanding and solving current or potential problems that the consultee may have in relation to a third party, whether individuals, groups, or organizations.

(b) A licensee is required to hold the art therapy specialty designation in order to use the title "art therapist" or the initials "A.T.". A licensee who does not hold the designation may engage in the practice of counseling by using art therapy as a counseling method but may not use the title or initials.

SUBCHAPTER C. CODE OF ETHICS.

§681.32 General Ethical Requirements.

(a) A licensee shall not knowingly make any misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including:

(1) the effectiveness of services;

(2) the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; or

(3) the practice or field of counseling.

(b) A licensee shall not make any misleading, deceptive, fraudulent or exaggerated claim or statement about the services of a mental health services organization or agency, including the effectiveness of services, qualifications, or products.

(c) A licensee shall discourage a client from holding exaggerated or false ideas held by a client or other person, the licensee shall take immediate and reasonable action to correct the ideas held.

(d) A licensee shall make reasonable efforts to prevent others whom the licensee does not control, from making misrepresentations; exaggerated or false claims; or false, deceptive, or fraudulent statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation; exaggerated or false claim; or false, deceptive, or fraudulent statement made by another, the licensee shall take immediate and reasonable action to correct the statement.

(e) A licensee shall inform an individual before or at the time of the individual's initial professional counseling session with the licensee of the following:

(1) fees and arrangements for payment;

(2) counseling purposes, goals, and techniques;

(3) any restrictions placed on the licensee by the Texas State Board of Examiners of Professional Counselors (board);

(4) the limits on confidentiality;

(5) any intent of the licensee to use another individual to provide counseling treatment intervention to the client; and

(6) supervision of the licensee by another licensed health care professional including the name and qualifications of the supervisor.

(f) A licensee shall inform the client of any changes to the items in subsection (e) of this section prior to initiating the change.

(g) A licensee shall provide counseling treatment intervention

only in the context of a professional relationship, and shall not provide counseling treatment intervention by means of newspaper or magazine articles, radio or television programs, mail or means of a similar nature, electronic media, or telephonic media when that is the primary vehicle for maintaining the counseling relationship.

(h) A licensee shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting patients or patronage for or from any health care professional.

(1) The provisions of the Health and Safety code, §161.091 relating to the prohibition of illegal remuneration apply to licensees.

(2) A licensee employed or under contract with a chemical dependency facility or a mental health facility shall comply with the requirements in the Health and Safety Code, §164.006 relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Health and Safety Code, Chapter 164, shall not be considered as a violation of the state law relating to illegal remuneration.

(i) A licensee shall not engage in activities that seek to meet the licensee's personal needs at the expense of a client.

(j) A licensee shall not promote the licensee's personal or business activities to a client unless the licensee informs the client of the licensee's personal or business interest in the activity.

(k) A licensee shall not provide counseling treatment intervention to the licensee's current or previous

family members, personal friends, or business associates.

(l) A licensee shall not knowingly offer or provide counseling treatment intervention to an individual concurrently receiving counseling treatment intervention from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent therapy, the licensee shall take immediate and reasonable action to inform the other mental health services provider.

(m) A licensee shall take reasonable action to inform medical or law enforcement personnel if the professional determines that there is a probability of imminent physical injury by the client to the client or others or there is a probability of immediate mental or emotional injury to the client.

(n) A licensee to whom a school district refers a student for counseling treatment intervention shall comply with the rules adopted by the Texas Education Agency relating to the relationship between the district and the licensee. This requirement only applies to an outside counselor, not a licensee who is a school district employee.

(o) In 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.

(p) For each client, a licensee shall keep accurate records of the dates of counseling treatment intervention, types of counseling treatment intervention, progress or case notes, and billing information. Records held by a licensee shall be kept for seven years for adult clients and seven years beyond the age of 18 for minor clients. Records held or owned by governmental agencies or

educational institutions are not subject to this requirement.

(q) 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 agreement.

(1) Supervisory 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.

(2) On the written request of a client, a client's guardian, or a client's parent (managing or possessory conservator) if the client is a minor, a licensee shall provide, in plain language, a written explanation of the 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.

(3) A licensee may not persistently or flagrantly overcharge a client.

(4) A licensee may not submit to a client or a third payer a bill for counseling treatment intervention that the licensee knows were not provided or knows were improper, unreasonable, or medically or clinically unnecessary, with the exception of an unkept appointment.

(r) A licensee shall terminate a professional counseling relationship when it is reasonably clear that the client is not benefiting from the relationship. When professional counseling is till indicated, the licensee shall take reasonable steps to facilitate the transfer to an appropriate referral or source.

(s) 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.

(t) A licensee may not persistently or flagrantly over treat a client.

(u) A licensee shall be subject to disciplinary action if the licensee is issued a public letter of reprimand, is assessed a civil penalty by a court, or has an administrative penalty imposed by the attorney general's office under the Crime Victims Compensation Act, Texas Civil Statutes, Article 8309-1.

(v) A licensee shall not aid and abet the unlicensed practice of professional counseling by a person required to be licensed under the Act.

(w) An applicant for licensure shall not participate in anyway in the subversion of licensing materials.

§681.33 Sexual Misconduct.

(a) For the purpose of this section the following terms shall have the following meanings.

(1) Mental health services means assessment, diagnosis, treatment, or counseling in a professional relationship to assist an individual or group in:

(A) alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction;

(B) understanding conscious or subconscious motivations;

(C) resolving emotional, attitudinal, or relationship conflicts; or

(D) modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning.

(2) Mental health services provider means a licensee or any other licensed or unlicensed individual who performs or purports to perform professional counseling or

mental health services, including a licensed social worker, a chemical dependency counselor, a licensed marriage and family therapist, a physician, a psychologist, or a member of the clergy.

(3) Sexual contact means:

(A) deviate sexual intercourse as defined by the Penal Code, §21.01;

(B) sexual contact as defined by the Penal Code, Section §21.01;

(C) sexual intercourse as defined by the Penal Code, Section §21.01; or

(D) requests by a licensee for conduct described by subparagraph (A), (B), or (C) of this paragraph.

(4) Sexual exploitation means a pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a client's sexual history within standard accepted practice while treating a sexual or marital dysfunction.

(5) Therapeutic deception means a representation by a licensee that sexual contact with, or sexual exploitation by , the licensee is consistent with, or a part of, a client's or former client's counseling.

(b) A licensee shall not engage in sexual contact with a person who is:

(1) a client or former client;

(2) an LPC intern supervised by the licensee; or

(3) a student at an educational institution at which the licensee provides professional or educational services.

(c) A licensee shall not engage in sexual exploitation of a person who is:

(1) a client or former client;
(2) an LPC intern supervised by the licensee; or

(3) a student at an educational institution at which the licensee provides professional or educational services.

(d) A licensee shall not practice therapeutic deception of a person who is a client or former client.

(e) It is a defense to a disciplinary action under subsections (b) - (d) of this section, if the person was no longer emotionally dependent on the licensee when the sexual exploitation began, the sexual contact occurred, or the therapeutic deception occurred, and the licensee terminated counseling with the person more than two years before the date the sexual exploitation began, the sexual contact occurred or the therapeutic deception occurred.

(f) It is not a defense under subsections (b) - (d) of this section, if the sexual contact, sexual exploitation, or therapeutic deception with the person occurred:

(1) with the consent of the person;

(2) outside the professional counseling sessions of the person; or

(3) off the premises regularly used by the licensee for the professional counseling sessions of the person.

(g) The following may constitute sexual exploitation if done for the purpose of sexual arousal or gratification or sexual abuse of any person:

(1) Sexual harassment, sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, and:

(A) is offensive or creates a hostile environment, and the licensee knows or is told this; or

(B) is sufficiently severe or intense to be abusive to a reasonable person in the context;

(2) any behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexual;

(3) inappropriate sexual comments about or to a person, including making sexual comments about a person's body;

(4) making sexually demeaning comments to or about an individual's sexual orientation;

(5) making comments about potential sexual performance except when the comment is pertinent to the issue of sexual function or dysfunction in counseling;

(6) requesting details of sexual history or sexual likes and dislikes when not necessary for counseling of the individual;

(7) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee;

(8) kissing or fondling of a sexual nature;

(9) making a request to date;

(10) any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature;

(11) any bodily exposure of genitals, anus or breasts;

(12) encouraging another to masturbate in the presence of the licensee; or

(13) masturbation by the licensee when another is present.

(h) Examples of sexual contact are:

(1) genital and genital contact;

(2) genital and anal contact;

(3) genital and oral contact;

(4) genital and any object contact;

(5) anal and any object contact;

(6) touching breasts;

(7) touching genitals; and

(8) touching anus.

(i) A licensee shall report sexual misconduct as follows.

(1) If a licensee has reasonable cause to suspect that a client has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during professional counseling or any other course of treatment, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during professional counseling or any other course of treatment, the licensee shall report the alleged conduct not later than the 30th day after the date the licensee became aware of the conduct or the allegations to:

(A) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred; and

(B) the board if the conduct involves a licensee and any other state licensing agency which licenses the mental health services provider.

(2) Before making a report under this subsection, the reporter shall inform the alleged victim of the reporter's duty to report and shall determine if the alleged victim wants to remain anonymous.

(3) A report under this subsection need contain only the information needed to:

(A) identify the reporter;

(B) identify the alleged victim, unless the alleged victim has requested anonymity;

(C) express suspicion that sexual exploitation, sexual contact, or therapeutic deception occurred; and

(D) provide the name of the alleged perpetrator.

§681.34 Testing.

(a) Prior to or following the administration of any testing, a licensee shall make known to clients the purposes and explicit use to be made of any testing does as a part of a professional counseling relationship.

(b) A licensee shall not appropriate, reproduce, or modify copyrighted test or parts thereof without the acknowledgment and permission of the copyright owner.

(c) A licensee shall not administer any test without the appropriate training and experience to administer and interpret the test.

(d) A licensee must observe the necessary precautions to maintain the security of any test administered by the license or under the licensee's supervision.

§681.35 Drug and Alcohol Use.

A licensee shall not:

(1) use alcohol or drugs in a manner which adversely affects the licensee's ability to provide counseling treatment intervention services;

(2) use illegal drugs of any kind; or

(3) promote, encourage, or concur in the illegal use or possession of alcohol or drugs.

§681.36 Confidentiality.

(a) Communication between a licensee and client and the client's records however created or stored are confidential under the provisions of the Health and Safety Code, Chapter 611 and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice.

(b) A licensee shall not disclose any communication, record, or identity of a client except as provided in the Health and Safety Code, Chapter 611 or other state or federal statutes or rules.

(c) A licensee shall comply with the Texas Health and Safety Code, Chapter 611, concerning access to records.

§681.37 Licensees and the Board.

(a) All licensees are bound by the provisions of the Licensed Professional Counselor Act (Act) and this chapter.

(b) A licensee shall have the responsibility of reporting alleged violations of the Act or this chapter to the Texas State Board of Examiners of Professional Counselors (board)'s executive secretary.

(c) A licensee shall keep his or her board file updated by notifying the board in writing of changes of name, highest academic degree granted, address, telephone number, and employment.

(d) A licensee shall cooperate with the board by furnishing required documents or information and by responding to a request for information from or a subpoena issued by the board or its authorized representative.

(e) A licensee shall comply with any order issued by the board relating to the licensee.

(f) A licensee shall not interfere with a board investigation by the willful misrepresentation of facts to the board or its authorized representative or by the use of threats or harassment against any person.

(g) A licensee shall not file a complaint with the board in bad faith.

§681.38 Assumed Names

(a) An individual practice by a licensee may be established as a corporation, a limited liability partnership, a limited liability company, or other allowable business entity in accordance with state or federal law.

(b) An assumed or trade name used by a licensee must not be false, deceptive, or misleading.

§681.39 Consumer Information

(a) A licensee shall inform each client of the name, address, and telephone number of the Texas State Board of Examiners of Professional Counselors (board) for the purpose of reporting violations to the Licensed Professional Counselor Act (Act) or this chapter:

(1) on each application or written contract for services;

(2) on a sign prominently displayed in the primary place of business; or

(3) on a bill for counseling treatment intervention provided to a client or third party.

(b) A licensee shall display the license certificate and current renewal card issued by the board in a prominent place in the primary location of practice.

(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.

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

§681.40 Advertising and Announcements

(a) Information used by a licensee in any advertisement or announcement shall not contain information which is false, inaccurate, misleading, incomplete, out of context, deceptive or not readily verifiable. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, and billing statements.

(b) False, misleading, or deceptive advertising or advertising

that is not readily subject to verification includes advertising that:

(1) makes any material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes any representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;

(6) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required;

(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or

(9) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

(c) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

(d) The highest academic degree earned from an accredited college or university and relevant to the profession of counseling or a counseling-related field may be used

when advertising or announcing counseling treatment intervention to the public or in counseling-related professional representations. A

degree received at a foreign university may be used if the degree could be accepted as a transfer degree by accredited universities as reported by the American Association of Collegiate Registrars and Admissions Officers. A licensee may advertise or announce his or her other degrees from accredited colleges or universities if the subject of the degree is specified.

(e) The Texas State Board of Examiners of Professional Counselors (board) imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name.

(f) All advertisements or announcements of counseling treatment intervention including telephone directory listings by a person licensed by the board may clearly state the licensee's licensure status by the use of a title such as "Licensed Counselor", or "Licensed Professional Counselor", or "L.P.C.", or a statement such as "licensed by the Texas State Board of Examiners of Professional Counselors."

§681.41 Research and Publications

(a) In research with a human subject, a licensee shall take reasonable precautions to ensure that the subject does not suffer emotional or physical harm.

(b) A licensee shall confine the use of data obtained from a professional counseling relationship for the purposes of education or research to content that can be disguised to ensure full protection of the identity of the subject client.

(c) When conducting or reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.

(d) A licensee must give due credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those persons who have contributed significantly to the licensee's research or publication.

§681.42 Finding of Non-Fitness for Licensure Subsequent to Issuance of License

The Texas State Board of Examiners of Professional Counselors (board) may take disciplinary action based upon information received after issuance of a license, if such information had been received prior to issuance of the license and would have been the basis for denial of licensure under §681.163 of this title (relating to Finding of Non-Fitness for Licensure).

§681.43 Required Reporting

A licensee shall report if required by any of the following laws:

(1) the Family Code, Chapter 34, concerning abuse or neglect of minors;

(2) the Human Resources Code, Chapter 48, concerning abuse, neglect, or exploitation of elderly or disabled persons;

(3) the Health and Safety Code, Chapter 161, Subchapter K, §161.131 et seq., concerning abuse, neglect, and illegal, unprofessional, or unethical conduct in an in-patient mental health facility, a chemical dependency treatment facility or a hospital providing comprehensive medical rehabilitation services; and

(4) the Civil Practice and Remedies Code, Section 81.006, concerning sexual exploitation by a mental health services provider.

**SUBCHAPTER D.
APPLICATION PROCEDURES**

§681.51 General

(a) An application must submit a complete application packet and fee to the board. Complete applications packets will consist of the required application materials described in §681.52 of this title (relating to Required Application Materials).

(b) Incomplete application packets received by the board will be returned to the applicant without review. Fees associated with the application process are not refundable. Applicants may resubmit a complete application packet without additional fee within 45 days of the date of notice of non-acceptance of the original application.

(c) Applicants submitting complete application packets, but which contain incomplete or unacceptable information will be notified of the specific deficiency in writing. A copy of each unacceptable document will be returned with this notice. Applicants will have 45 days from the date of the notice to resubmit corrected or replacement documents. Applications not corrected or completed within 45 days of notice of deficiencies will be void and application materials will be returned to the applicant. Fees associated with the application process are not refundable.

(d) After an application is voided, an applicant will be required to submit a new application and all required materials in addition to paying a new application fee.

§681.52 Required Application Materials

(a) General application form. An application form shall contain:

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

(2) a statement that the applicant has read the Act and Texas State Board of Examiners of Professional Counselors (board) rules, and agrees to abide by them;

(3) the applicant's permission to the board to seek any information or references it deems fit 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 licensee;

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

(6) the applicant's signature, dated and notarized; and

(7) a recent black and white full-face wallet size photograph of the applicant with the imprint of the notary seal on the edge of the photograph.

(b) Practicum documentation form if applying for a temporary, regular license or regular license with art therapy specialty designation. 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 done;

(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 kinds of clients seen, and the counseling methods employed;

(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.

(c) Supervised experience documentation form if applying for a regular license or a regular license with art therapy specialty designation. 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 gained;

(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, including any reservations about the applicant held by the supervisor;

(9) the supervisor's notarized signature; and

(10) a statement that the supervised experience complies with the rules set out in Subchapter F of this title (relating to Experience Requirements for Examination and Licensure) and 681.114 of this title (relating to Art Therapy specialty Designation).

(d) Supervisory agreement form if applying for a temporary license. The supervisory agreement form must be completed and signed by both the supervisor and the applicant before a notary public. A supervisory agreement must also be submitted for subsequent supervisors and settings.

(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) 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.

(f) Provisional license based on endorsement. Applicants for a provisional license based on endorsement must submit:

(1) a general application form as set out in subsection (a) of this section and the provisional license fee;

(2) official documentation of licensure in another state or territory;

(3) official documentation that the applicant has passed a national examination relating to counseling or art therapy or an exam offered by another state or territory for licensure as a counselor or art therapist; and

(4) a letter of sponsorship from a person who holds a regular license in Texas to practice counseling. An applicant for provisional license may be excused from this requirement if the board determines that compliance with the

requirements constitutes a hardship to the applicant.

(g) Art therapy specialty designation. An applicant for a regular license with an art therapy specialty designation must submit evidence of the successful completion of the Certification Examination in Art Therapy of the Art Therapy Credentials Board.

SUBCHAPTER E. ACADEMIC REQUIREMENTS FOR EXAMINATION AND LICENSURE

§681.61 Purpose.

The purpose of this subchapter is to set out the academic requirements for a temporary, regular license, or regular license with art therapy specialty designation and the examination required for a regular license or regular license with art therapy specialty designation.

§681.62 General.

(a) The Texas State Board of Examiners of Professional Counselors (board) shall accept as meeting academic requirements, graduate work done at American universities which hold accreditation form accepted regional educational accrediting associations as reported by the American Association of Collegiate Registrars and Admissions Officers.

(b) Degrees and course work received at foreign universities shall be acceptable only if such course work could be counted as transfer credit by accredited universities as reported by the American Association of Collegiate Registrars and Admissions Officers. If degrees or course work cannot be documented because the foreign university refuses to issue a transcript or other evidence of the degrees or course work, the board

may consider, on a case-by-case basis, accepting degrees or course work based on other evidence presented by the foreign graduate applicant.

(c) The relevance to the licensing requirements of academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other means.

(d) The board shall count no undergraduate level courses taken by an applicant as meeting any academic requirements unless the applicant's official transcript clearly shows that the course was awarded graduate credit by the school.

(e) The board shall accept no course work which an applicant's transcript indicates was not completed with a passing grade or for credit.

(f) In evaluating transcripts, the board shall consider a quarter hour of academic credit as two thirds of a semester hour.

§681.63 Academic Requirements.

(a) Persons applying for examinations and licensure must have:

(1) a graduate degree in counseling or related field on at least the master's level; and

(2) a planned graduate program in counseling or related field or its substantial equivalent of at least 48 semester hours.

(b) The 48 semester hours must be designed to train a person to provide direct services to assist 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) The 48 semester hours may be course work that was part of the required graduate degree, or may be in addition to course work taken for the degree, or a combination of both.

(2) The 48 hours must cover the course content described in §681.64 of this title (relating to Academic Course Content).

(c) Applicants must also have a supervised practicum experience that is primarily professional counseling in nature of at least 300 clock-hours which were a part of the required planned graduate program.

91) At least 100 hours of direct client counseling contact must be shown.

(2) Academic credit for other acknowledgment of the practicum must appear on the applicant's official graduate transcript.

(3) No practicum course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward the 300 clock-hour requirement.

(d) A person who holds a temporary license on September 1, 1996, may obtain a regular license after September 1, 1996, without having a master's or doctorate degree in counseling or a related field and a 48 semester hour planned graduate program but must meet the applicant qualifications for a regular license in effect when the person applied for the temporary license.

§681.64. Academic Course Content.

(a) An applicant is responsible for obtaining academic course work in an demonstrating competency in the following specific areas through

successful completion of the examination once the supervised experience requirement has been met:

(1) **normal human growth and development** - the process and stages of human intellectual, physical, social, and emotional development from prenatal origins through old age;

(2) **abnormal human behavior** - the principles of understanding dysfunction in human behavior or social disorganization;

(3) **appraisal or assessment techniques** - the principles, concepts, and procedures of systematic appraisal or assessment of an individual's attitudes, aptitudes, achievement, interests, and personal characteristics, which may include the use of both non-testing approaches and test instruments;

(4) **counseling theories** - the major theories of professional counseling;

(5) **counseling methods or techniques** - the methods or techniques used to provide counseling treatment intervention including:

(A) counseling individuals; and

(B) the theory and types of groups, including dynamics and the methods of practice with groups;

(6) **research** - the methods of research which may include the study of statistics or a thesis project in an area relevant to the practice of professional counseling;

(7) **life style and career development** - the theories of vocational choice, career choice and life style, sources of occupational and educational information, and career decision-making processes;

(8) **social, cultural, and family issues** - the studies of change, ethnic groups, gender studies, family systems, urban and rural societies,

population patterns, cultural patterns, and differing life styles; and

(9) **professional orientation** - the objectives of professional organizations, codes of ethics, legal aspects of practice, standards of preparation, and the role identity of persons providing direct counseling treatment intervention.

(b) The remaining courses needed to meet the 48 graduate-hour requirement shall be in areas directly supporting the development of an applicant's professional counseling skills such as practicum or internship credit and other courses related primarily to professional counseling.

SUBCHAPTER F. EXPERIENCE REQUIREMENTS FOR EXAMINATION AND LICENSURE

§681.81. Temporary License.

(a) The Texas State Board of Examiners of Professional Counselors (board) will issue a temporary license to an applicant who:

(1) has filed an application form and temporary license fee;

(2) has met all of the academic requirements for licensure;

(3) has entered into a supervisory agreement with a supervisor meeting the requirements of §681.83 of this title (relating to Supervisor Requirements); and

(4) has not failed any two successive board examinations.

(b) In Texas, a person must obtain a temporary license before the person begins an internship or continues an internship. Hours obtained by an unlicensed person in any setting shall not count toward the supervised experience requirements except as follows.

(1) If a person filed a complete application for a temporary

license prior to January 1, 1994, the hours from January 1, 1994, to the issuance of the temporary license shall be counted for supervised experience if all other requirements are met.

(2) Hours obtained prior to June 1, 1994, in a setting under which the person is exempt from licensure requirements shall be counted if all other supervised experience requirements are met.

(3) The board may accept supervised experience hours accumulated without a temporary license if unreasonable delays which may have occurred prior to October 1996, as determined by the board, occurred in processing a completed application packet. This does not include an applicant's failure to submit required application material.

(c) An LPC intern may practice only as part of his or her internship.

(d) An LPC intern must maintain a temporary license during his or her supervised experience.

(e) A temporary license is valid for 30 months or until the LPC intern fails the examination twice, whichever occurs first.

(f) An LPC intern who does not obtain a regular license during the 30 months and does not fail the exam twice may apply for a 30 month extension of his or her temporary license by written request and payment of fee. Only one extension will be issued to an LPC intern which will be valid for 30 months or until the LPC intern fails the examination twice, whichever occurs first.

(g) An LPC intern who holds a temporary license may obtain a regular license by:

(1) submitting a supervised experience documentation form documenting successful completion of the required hours of supervised experience in accordance with

§681.52(c) of this title (relating to Required Application Materials); and §681.82 of this title (relating to Experience Requirements (internship)); and

(2) successfully completing The Texas State Board of Professional Counselor examination for licensure in accordance with Subchapter G of this chapter (relating to Licensure Examinations).

§681.82. Experience Requirements (Internship).

(a) Applicants for licensure must have completed a supervised experience acceptable to the Texas State Board of Examiners of Professional Counselors (board) based on the following:

(1) persons who were admitted to a counselor preparation program designed to obtain a graduate degree in counseling or related fields prior to September 1, 1997, must complete 24 months or 2,000 clock-hours of supervised counseling experience; or

(2) persons who are admitted to a counselor preparation program designed to obtain a graduate degree in counseling or related fields after September 1, 1997, must complete 36 months or 3,000 clock-hours of supervised counseling experience.

(b) The supervised experience must include must include at least 1000 hours of direct client counseling contact for persons accumulating 2,000 hours and 1,500 hours of direct client counseling contact for persons accumulating 3,000 hours.

(c) An applicant must complete:

(1) the required 2,000 clock-hours of supervised experience in a time period of no fewer than 12 months; or

(2) the required 3,000 clock-hours of supervised experience in a time period of now fewer than 18

months.

(d) The 12 or 18 month time period shall not be decreased by excess practicum hours that are applied toward the supervised experience hours.

(e) If applying under the 24 month requirement or the 36 month requirement, the applicant must average at least 30 clock-hours per week of practice.

(f) The internship must have been after completion of a:

(1) graduate degree in counseling or a related field; and

(2) a planned graduate program in counseling or its substantial equivalent of at least 48 semester hours.

(g) The applicant who began to accumulate supervised experience on or after October 2, 1996, must have completed at least 48 graduate semester hours in counseling or a related field and hold a temporary license from the board.

(h) The experience must have consisted primarily of the provision of direct counseling services within a professional relationship to individuals or groups 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.

(i.) The applicant must have received direct supervision consisting of a minimum of one hour a week of face-to-face supervision in individual or group settings. No more than one half of the total hours of supervision having been received in group supervision.

(j) The experience must have been under the direction of a board approved supervisor.

(k) The board may count excess

practicum hours toward the experience requirements of this subchapter if:

(1) the hours were part of the applicant's academic practicum or internship accumulated after the commencement of the applicant's planned graduate program;

(2) the hours are in excess of the 200-hour practicum required by §681.64(c) of this title (relating to Academic Course Content); and

(3) the hours to be counted are not more than 400 hours.

§681.83. Supervisor Requirement.

(a) A supervisor acceptable to the Texas State Board of Examiners of Professional Counselors (board) must be one of the following:

(1) a person who holds a regular license issued by this board or a person licensed as a counselor in another state;

(2) a person licensed or certified by this state or any other state in a profession that provides counseling and with the academic training and experience to supervise the counseling services offered by the intern. In Texas this person must be a licensed psychologist, a licensed physician board certified in psychiatry, or a licensed master social worker with advanced clinical practitioner designation, or a licensed marriage and family therapist; or

(3) a person in a state, territory, county, or jurisdiction where no appropriate licensure or state certification is available who submits to the board relevant official graduate transcripts, documentation of practicum and experience and any professional certifications which demonstrate that the person is qualified to supervise the type of counseling practice performed by the intern.

(b) A supervisor under subsection (a)(1) or (2) of this

section must have met the following requirements.

(1) The supervisor must have held an active state license or certification in good standing for at least 24 months from the date of issuance. Completion of a doctoral degree in counseling or a related field at an accredited university may be substituted for 12 months of the 24 month requirement.

(2) The supervisor shall meet the requirements stated in paragraph (1) of this subsection and must have successfully completed one of the following:

(A) an examination offered for certification as a counselor supervisor or current certification as a counselor supervisor by a nationally recognized counseling association acceptable to the board;

(B) 40 clock-hours of training in the supervision of professional counseling or mental health services through one or a combination of the following:

(i) a graduate course in counselor supervision taken for credit at an accredited college or university;

(ii) continuing education programs meeting the requirements of §681.174 of this title (relating to Types of Acceptable Continuing Education); or

(iii) clinical supervision of the proposed supervisor by a person who has already met the requirements of this subsection or if from another state who would be acceptable under subsection (a)(s) or (3) of this section;

(C) a doctoral degree in professional counseling or a related field which was designed to train the person to provide direct services to individuals or groups in a professional counseling relationship

in the resolution of personal social, educational, or occupational problems. The degree must have been awarded before January 1, 1995, by a university described in the academic requirements for examination and licensure in §681.62 (a) or (b) of this title (relating to General); or

(D) provided at least three years of clinical supervision in professional counseling of another person(s) through a university described in §681.62 (a) or (b) of this title or a mental health facility licensed, accredited, or otherwise credentialed by the federal, state, or local government or a nationally recognized organization in the field of mental health. The three years must have been completed before January 1, 1995.

(3) The 40 clock-hours shall include at least the following:

(A) defining and conceptualizing supervision and models or supervision for at least three clock-hours;

(B) supervisory relationship and counselor development for at least three clock-hours;

(C) supervision methods and techniques for at least 12 clock-hours, covering roles (teacher, counselor, and consultant), focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (racial and ethnic issues and gender issues), and evaluation methods;

(D) ethical, legal, and professional issues for at least 12 clock-hours, covering roles for supervision and standards of practice ((Subchapter B of this chapter (relating to Authorized Counseling Methods and Practices)); §681.82 of this title ((relating to Experience Requirements (Internship))); and this section should be included), other

codes of ethics, and ethical and legal dilemmas; and

(E) executive and administrative tasks for at least three clock-hours covering supervision plan and contract, and time for supervision, record keeping and reporting.

(4) At the time of application for a license, a person must submit required documentation showing that the person's supervisor meets the requirements of this section.

(c) A supervisor shall maintain and sign a record(s) to document the date of each supervision conference of a minimum of one hour a week of face-to-face supervision in individual or group settings and to document the LPC intern's total number of hours of supervised experience accumulated up to the date of the conference.

§681.84 Other Conditions for Supervised Experience.

(a) An LPC intern may not practice within his or her own private independent practice of professional counseling. Months or hours of independent practice may not count as part of the supervised experience. The person may be employed in his or her supervisor's private practice of professional counseling and the months or hours may be counted.

(b) In Texas, a person must obtain a temporary license before the person begins an internship or continues an internship. Hours obtained by an unlicensed person in any setting shall not count toward the supervised experience requirements except as follows.

(1) If a person filed a complete application for a temporary license prior to January 1, 1994, the hours from January 1, 1994, to the issuance of the temporary license shall be counted for supervised experience if all other requirements

are met.

(2) Hours obtained prior to June 1, 1994, in a setting under which the person is exempt from licensure requirements shall be counted if all other supervised experience requirements are met.

(3) The board may accept supervised experience hours accumulated without a temporary license if unreasonable delays which may have occurred prior to October 1996, as determined by the board, occurred in processing a completed application packet. This does not include an applicant's failure to submit required application material.

(c) A supervisor may not be in the employ of the LPC intern. The LPC intern may compensate the supervisor for time spent in supervision if the supervision is not a part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

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

(e) An LPC intern may be employed on a salary basis or be a consultant or volunteer.

(f) The full professional responsibility for the counseling activities of an LPC intern shall reset with the intern's board approved supervisor.

(1) The supervisor shall ensure that the LPC intern is aware of and adheres to Subchapter C. Code of Ethics of this chapter.

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

(3) No payment for services will be made directly by a client to the intern.

(4) Client records are not the

property of the counseling intern.

(5) All supervised experience shall be in accordance with this chapter.

(g) A supervisor may not supervise more than eight persons at one time.

(h) All billing documents for services provided by LPC interns shall reflect that the LPC intern holds a temporary license and is under supervision.

(i) 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.

(j) A supervisor whose license expires or is revoked or suspended is no longer a valid supervisor and hours accumulated under that person's supervision after expiration, revocation or suspension will not count as acceptable hours.

(k) Experience received under a supervisor who is a licensee subject to a board order shall not qualify as supervised experience for licensure purposes. Supervisors who become subject to a board order shall inform all LPC interns of the board order and assist the LPC interns in finding alternate supervision.

SUBCHAPTER G. LICENSURE EXAMINATIONS

§681.91 Examination.

(a) The Texas State Board of Examiners of Professional Counselors (board) shall develop a licensure examination.

(b) The administration of the examination may be contracted to a national testing company.

(c) Examinations will be administered at testing centers located in various cities throughout

the state.

§681.92 Requirements for Licensure Examination.

(a) LPC interns must submit a supervised experience documentation form documenting successful completion of required supervised experience in accordance with §681.52(c) of this title (relating to Required Application Materials).

(b) Applicants for a regular license that do not hold a temporary license must apply for licensure in accordance with §681.51 of this title (relating to General) and §681.52 of this title (relating to Required Application Materials).

(c) The Texas State Board of Examiners of Professional Counselors (board) shall provide written notification to persons who meet all requirements for examination.

§681.93 Grading.

(a) Electronically administered licensure examinations shall be graded at the testing center upon completion of the examination.

(b) Written examinations may be requested under certain circumstances; however, grading will not be provided immediately upon completion of the examination.

§681.94 Failures.

(a) An applicant who fails the licensure examination may schedule a second examination by submitting a copy of a failing score report and a written request for the second examination.

(b) The application of a person who fails any two examinations will be voided.

(c) The temporary license of a person who fails any two successive examinations shall be voided.

(d) A person who fails any two successive examinations may not

reapply for a regular license until two years have elapsed from the date of the last examination or until the person has completed nine graduate semester-hours in the applicant's weakest portions of the examination. An application for licensure must be submitted in accordance with §681.51 of this title (relating to General) and §681.52 of this title (relating to Required Application Materials).

§681.95 Notice of Results.

(a) Each examinee shall receive the examination results on site at the time of examination, if taken electronically.

(b) No matter what numerical or other scoring system is used in arriving at examination results, the official notice of results to applicants shall be state in terms of "pass" or "fail".

§681.96 Failure to Take Examination.

An applicant may be excused from a scheduled examination for illness, death in the immediate family, disabling traffic accident, court appearance or jury duty, or military duty. Written verification and supporting documentation of the situation must be submitted to the testing company within 14 days of the original examination date. Documentation for medical absences must have the original signature of the medical practitioner. Stamped signatures will not be accepted.

SUBCHAPTER H. LICENSING

§681.111 Issuance of Licenses.

(a) The Texas State Board of Examiners of Professional Counselors (board) will issue a license to each applicant who has satisfactorily fulfilled all requirements for licensure including

examination. Upon successful completion of the examination, an applicant must submit a copy of the examination score report form with the licensure fee.

(b) Upon receipt of the score report form and fee, the board shall issue a license indicating the license number.

(c) The board will replace a lost, damaged, or destroyed license certificate or renewal cards upon a written request from the licensee and payment of the license replacement fee. Requests must include a statement detailing the loss or destruction of the licensee's original license or be accompanied by the damaged certificate.

(d) Upon the written request and payment of the license certificate duplicate fee by a licensee, the board will provide a licensee with a duplicate for a second place of practice which is designated in a licensee's file.

§681.112 Endorsement.

(a) The Texas State Board of Examiners of Professional Counselors (board) may grant a provisional license to a person who holds, at the time of application, a license as a counselor or art therapist issued by another state or territory that is acceptable to the board. An applicant for a provisional license must:

(1) submit an application and provisional license fee;

(2) be licensed in good standing as a counselor or art therapist in another state or territory that has licensing requirements that are substantially equivalent to the regular licensing requirements of the Licensed Professional Counselor Act (Act);

(3) have passed a national examination relating to counseling or art therapy or an exam offered by

another state or territory for licensure as a counselor or art therapist; and

(4) be sponsored by a person who holds a regular license issued by the board with whom the provisional licensee may practice.

(b) An applicant for a provisional license may be excused from the requirement of subsection (a)(4) of this section if the board determines that compliance with that subsection constitutes a hardship to the applicant.

(c) The board must complete the processing of a provisional licensee's application for a license not later than the 180th day after the date the provisional license is issued or at the time licenses are issued following the successful completion of the examination, whichever is later. The person holding a provisional license must file all evidence of his or her academic and experience requirements within the 180 days. The board office shall evaluate the information received and may issue a deficiency letter during the 180 days. If the documentation received during the 180 days does not show that the person meets the academic and experience requirements set out in this chapter, the application shall be proposed for denial.

(d) A provisional license is valid until the date the board issues a license or denies the provisional licensee's application for a license.

(e) The board shall issue a regular license or a regular license with art therapy specialty designation to the holder of a provisional license if the board verifies that the provisional licensee has the academic and experience requirements for a regular license or a regular license with art therapy specialty designation.

(f) The board shall consider only states and territories of the United States as acceptable for the purposes

of licensure by endorsement.

§681.113 Surrender of License.

(a) Surrender by licensee.

(1) A licensee may at any time voluntarily offer to surrender his or her license for any reason, without compulsion.

(2) The license may be delivered to the Texas State Board of Examiners of Professional Counselors (board) office by hand or certified mail.

(3) If there is no complaint pending, the board office may accept the surrender and void that license.

(b) Formal disciplinary action.

(1) When a licensee has offered the surrender of his or her license after a complaint has been filed, the board shall consider whether to accept the surrender of the license.

(2) Surrender of a license without acceptance thereof by the board or a licensee's failure to renew the license shall not deprive the board of jurisdiction against the licensee under the Licensed Professional Counselor Act (Act) or any other statute.

(3) When the board has accepted such a surrender, that surrender is deemed to be the result of a formal disciplinary action and a board order shall be prepared accepting the surrender.

(c) Reinstatement. A license which has been surrendered and accepted may not be reinstated; however, a person may apply for a new license in accordance with the Act and this chapter.

§681.114 Application for Art Therapy Specialty Designation.

(a) A person applying for examination and licensure with an art therapy specialty designation must:

(1) meet the requirements for a regular license set out in

Subchapter E of this chapter (relating to Academic Requirements for Examination and Licensure) and Subchapter F of this chapter (relating to Experience Requirements for Examination and Licensure);

(2) hold either:

(A) a master's or doctoral degree in art therapy that includes 700 hours of supervised practicum from an accredited institution; or

(B) have all of the following:

(i) a master's degree in a counseling-related field;

(ii) a minimum of 21 semester hours or the equivalent of sequential course work in the history, theory, and practice of art therapy;

(iii) 700 hours of supervised practicum from an accredited institution;

(3) have the experience requirements set out in subsection (c) of this section; and

(4) have successfully completed the Certification Examination in Art Therapy of the Art Therapy Credentials Board.

(b) The Texas State Board of Examiners of Professional Counselors (board) shall accept an individual course from an art therapy program accredited through the American Art Therapy Association as satisfying the education requirements set out in §681.63 of this title (relating to Academic Requirements) if not less than 75% of the course content is substantially equivalent to the content of a course required in §681.64 of this title (relating to Academic Course Content).

(c) As part of the supervised experience requirements for art therapy specialty designation required under the Act, §10(a)(5) and §681.82 of this title (relating to Experience Requirements

(Internship), and §681.83 of this title (relating to Supervisor Requirements) and 681.84 of this title (relating to other conditions for Supervised Experience) and applicant must have the following hours.

(1) For a person applying on or after September 1, 1996, supervised experience hours must include:

(A) 1,000 client contact hours under supervision of a licensed professional counselor with an art therapy specialty designation, if the applicant holds a master's or doctoral degree in art therapy that includes 700 hours of practicum; or

(B) 2,000 client contact hours under supervision of a nationally registered art therapist or other supervisor acceptable to the board as set out in §681.83 of this title if the applicant holds a master's degree in a counseling related field and has a minimum of 21 semester hours or the equivalent of sequential course work in the history, theory, and practice of art therapy with 700 hours of practicum.

(2) For a person applying on or after September 1, 1998, supervised experience hours must include:

(A) 1,000 client contact hours under supervision of a licensed professional counselor with an art therapy specialty designation, if the applicant holds a master's or doctoral degree in art therapy that includes 700 hours of practicum; or

(B) 2,000 client contact hours under supervision of a licensed professional counselor with an art therapy specialty designation, if the applicant holds a master's degree in a counseling related field and has a minimum of 21 semester hours or the equivalent of sequential course work in the history, theory, and practice of art therapy with 700 hours practicum.

(d) An LPC intern with art therapy specialty designation must comply with the requirements set out in:

(1) §681.81(c)-(g) of this title (relating to Temporary License);

(2) §681.82(a)-(b) and (e)-(g) of this title

(3) §681.83(c) of this title; and

(4) §681.84(a) and (c)-(n) of this title.

(e) An applicant for a regular license with art therapy specialty designation must pass the licensed professional counselor examination administered by the board.

SUBCHAPTER I. REGULAR LICENSE RENEWAL AND INACTIVE AND RETIREMENT STATUS

§681.121 General.

(a) A regular license or a regular license with art therapy specialty designation must be renewed annually.

(b) A person who holds a regular license or a regular license with art therapy specialty designation must have fulfilled any continuing education requirements prescribed by Texas State Board of Examiners of Professional Counselors (board) rule in order to renew a license.

(c) Each person who holds a regular license or a regular license with art therapy specialty designation is responsible for renewing the license and shall not be excused from paying late renewal fees or renewal penalty fees. Failure to receive notice from the board does not waive payment of late penalty fees.

(d) The board shall deny the renewal of the license of a licensee who is in violation of the Licensed Professional Counselor Act (Act) or this chapter at the time of application for renewal.

(e) A person whose license has expired shall return his or her license certificate to the board.

(f) A person whose license has expired shall not practice professional counseling or advertise counseling treatment interventions.

(g) The deadlines established for renewals, late renewals, and license renewal penalty fees in this subchapter are based on the postmarked date of the documentation submitted by the licensee.

(h) The board shall deny renewal if required by the Education Code, §57.491, relating to defaults on guaranteed student loans.

§681.122 Staggered Renewals.

The Texas State Board of Examiners of Professional Counselors (board) shall use a staggered system for license renewals. The renewal date of a license shall be the last day of the licensee's birth month. If the birth month occurs less than 120 days from the date the license is issued, the expiration date shall be the time period less the 120 days plus one year.

§681.123 License Renewal.

(a) At least 45 days prior to the expiration of a regular license or a regular license with art therapy specialty designation, the Texas State Board of Examiners of Professional Counselors (board) will send notice to a licensee that includes the expiration date of the license, a schedule of the renewal and late fees, and the number of hours needed to complete any continuing education requirements.

(b) Notice of license renewal shall be furnished to licensees eligible for renewal. The notice shall require the licensee to notify the board of any changes to information necessary to keep records current.

(c) The board shall not renew a license until it receives the renewal fee and the board form for reporting applicable continuing education requirements.

(d) The board shall issue a renewal card to a licensee who has met all requirements for renewal. The licensee must display the renewal card in association with the license.

(e) The license of a person who made a timely and sufficient request for renewal of his or her license does not expire until the application for renewal is finally determined by the board, or in case the application is denied or the terms of the new license limited, until the last day for seeking review of the board's order or a later date fixed by order of a reviewing court.

(f) The board shall deny the renewal of a license if the licensee is a party to a formal disciplinary action. A formal action commences when the notice described in §681.192(c) of this title (relating to Disciplinary Action; Notices) is mailed by the board.

(1) A license that is not revoked or suspended as a result of formal proceedings shall be renewed provided that all other requirements are met.

(2) In the case of delay in the license renewal process because of formal disciplinary action, late and penalty fees shall not apply.

§681.124 Late Renewal.

(a) A person who renews a license after the expiration date but on or within 90 days after the expiration date shall pay the appropriate late renewal fee.

(b) If a person has not renewed a license for more than 30 days after the date of expiration, the Texas State Board of Examiners of Professional Counselors (board) shall

inform the person of the expiration date of the license and the amount of the fee required for renewal.

(c) The board shall notify a person whose license is expired that the person may not advertise, practice, or represent himself or herself as a counselor in any manner. Upon the expiration of a person's license, the board may notify the person to return the license certificate to the board.

(d) A person whose license was not renewed on or within 90 days of the expiration date may renew within one year of the expiration date by paying the appropriate renewal fee plus the license renewal penalty fee. Payment must be in the form of a personal check, certified check, or money order.

(e) If a person did not have the required continuing education at the time of expiration of the license, the person must file evidence of completion of the required continuing education before the license can be renewed.

(1) A license is considered expired until all requirements for renewal are met.

(2) Evidence of continuing education shall be the completed continuing education form and other documentation required by the board.

(3) The time period from expiration of the license until renewal of the license shall be subtracted from the next one-year continuing-education reporting period.

(f) On or after one year from the expiration date, a person may no longer reinstate the license and must reapply by submitting a new application, paying the required fees, and meeting the current requirements for license including passing the licensure examination.

§681.125 Inactive Status.

(a) A licensee may place his or her license on inactive status for one year by submitting a written request prior to the expiration of the license along with the inactive fee. Inactive status periods shall not be granted to persons whose licenses are not current and in good standing.

(b) An inactive status period shall begin on the first day of the month following payment of an inactive status fee.

(c) A person may not act as a counselor, represent himself or herself as a counselor, or provide counseling treatment intervention during the inactive status period.

(d) Continuing education credit may be earned while on inactive status.

(e) A person is subject to investigation and action under Subchapter L of this chapter (relating to Complaints and Violations) during the period of inactive status.

(f) A person must notify the board in writing to return to active status. Active status shall begin on the first day of the month following payment of applicable fees.

(g) The person's next continuing education cycle will begin upon return to active status and end on the last day of the person's birth month.

(h) The licensee must renew the inactive status annually.

§681.126 Retired Status.

(a) A licensee may request his or her license be placed on retired status by submitting a written request along with the license certificate. The Texas State Board of Examiners of Professional Counselors (board) staff will stamp the license certificate as retired, indicate the date stamped, and return the certificate to the licensee.

(b) Once a licensee places his or her license on retired status, the individual may no longer practice

professional counseling or refer to himself or herself as a counselor. The individual will no longer be required to pay renewal fees or to obtain continuing education.

(c) A retired license cannot be renewed or reinstated. To be eligible for a new license to practice professional counseling, the person would be required to apply for another license by meeting requirements in effect at the time of the application, including passing the examination.

§681.127 Active Military.

If a licensee fails to renew his or her license because the licensee is called to or is on active duty with the armed forces of the United States serving outside of the State of Texas, the licensee or the licensee's authorized representative may request that the license be declared inactive or be renewed. A request for inactive status shall be made in writing to the Texas State Board of Examiners of Professional Counselors (board) prior to expiration of the license or within one year from the expiration date. This section is an exception to the requirement in §681.125 of this title (relating to Inactive Status) that the request be made prior to expiration of the license. A request for renewal may be made before or after the expiration date.

(1) If the request is made by the licensee's authorized representative, the request must include a copy of the appropriate power of attorney or written evidence of a spousal relationship.

(2) The written request shall include a copy of the official transfer orders of the licensee or other official military documentation showing that the licensee is called to or on active duty serving outside of the State of Texas.

(3) The payment of the

inactive status fee, late renewal fee and licensure renewal penalty fee is waived for a licensee under this section.

(4) An active duty licensee shall be allowed to renew under this section without submitting proof of continuing education hours if proof is required for renewal; however, the licensee must submit proof of completion of the required number of continuing education hours by the end of the following time period. If the licensee fails to submit proof of completion of the required continuing education by the end of the time period, the board may suspend or revoke or deny renewal of the license.

(5) The written request shall include a current address and telephone number for the licensee or the licensee's authorized representative.

(6) The board may periodically notify the licensee or the licensee's authorized representative that the license of the licensee remains in inactive status, if applicable.

(7) Except in extraordinary circumstances, a licensee on active duty serving outside the State of Texas shall notify the board that the licensee is on active duty. The board shall note in the licensee's file that the licensee may be eligible for renewal under this section.

(8) If a licensee is a civilian impacted or displaced for business purposes outside of the State of Texas due to a national emergency or war, the licensee or the licensee's authorized representative may request that the license be declared inactive in the same manner as described in this section for military personnel. The written request shall include an explanation of how the licensee is impacted or displaced, which explanation shall be on the

official letterhead of the licensee's business. The requirements of this section relating to renewal by active duty licensees shall not apply to a civilian under this paragraph.

§681.128 Suspension of License for Failure to Pay Child Support.

(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support, the executive secretary shall immediately determine if the board has issued a license to the obligator named on the order, and, if a license has been issued:

(1) record the suspension of the license in the board's records;

(2) report the suspension as appropriate; and

(3) demand surrender of the suspended license.

(b) The board shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The board will provide notice as appropriate to the licensee or to others concerned with the license.

(c) The board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Family Code, Chapter 232 as added by Acts 1995, 74th Legislature, Chapter 751, §751.85 (House Bill 433) and may not review, vacate, or reconsider the terms of an order.

(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the board.

(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.

(f) An individual who continues to engage in the practice of counseling or continues to use the titles "Licensed Professional Counselor," "Licensed Counselor," "Licensed Professional Counselor - Art Therapist," "Art Therapist" or the initials "L.P.C.," "L.P.C. - A.T.," or "A.T." after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the board.

(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive secretary shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.

(h) The individual must pay a reinstatement fee in an amount equal to the annual renewal fee set out in §681.17 of this title (relating to Fees) prior to issuance of the license under subsection (g) of this section.

SUBCHAPTER J. CRITERIA FOR DETERMINING FITNESS OF APPLICANTS FOR EXAMINATION AND LICENSURE

§681.161 Fitness of Applicants for Licensure.

In determining the fitness of an applicant for a temporary license or a regular license, the Texas State Board of Examiners of Professional Counselors (board) shall consider the following:

(1) the skills and abilities of an applicant to provide adequate counseling services to clients; and

(2) the ethical behavior of an applicant in relationships with other professionals and clients.

§681.162 Materials Considered in Determination of Fitness of Applicants.

In determining the fitness of applicants for a temporary or a regular license, the Texas State Board of Examiners of Professional Counselors (board) shall consider the following:

(1) evaluations of supervisors or instructors;

(2) statements from persons submitting references for the applicant;

(3) evaluations of employers and/or professional associations;

(4) allegations of clients;

(5) transcripts or findings from official court, hearing, or investigative proceedings; and

(6) any other information which the board considers pertinent to determining the fitness of an applicant.

§681.163 Finding of Non-Fitness for Licensure.

The substantiation of any of the following items related to an applicant may be, as the Texas State Board of Examiners of Professional Counselors (board) determines, the basis for the denial of a temporary license or a regular license of the applicant:

(1) lack of the necessary skills and abilities to provide adequate counseling services in independent practice;

(2) any misrepresentation in the application or other materials submitted to the board;

(3) the violation of any provision of the Licensed Professional Counselor Act (Act) or this chapter in effect at the time of application which is applicable to an unlicensed person; or

(4) the violation of any provision of code of ethics which would have applied if the applicant

had been a licensee at the time of the violation.

SUBCHAPTER K. CONTINUING EDUCATION REQUIREMENTS.

§681.171 Purpose.

The purpose of these sections is to establish the continuing education requirements for the renewal of a regular license or a regular license with art therapy specialty designation which a licensee must complete annually toward furthering of professional development in professional counseling. These requirements are intended to maintain and improve the quality of professional services in counseling provided to the public and keep the licensee knowledgeable of current research, techniques, and practice, and provide other resources which will improve skill and competence in professional counseling.

§681.172 Deadlines.

Continuing education requirements for renewal shall be fulfilled during a twelve month period beginning on the first day of a licensee's renewal year and ending on the last day of the licensee's renewal year.

§681.173 Hour Requirements for Continuing Education.

A licensee must complete 12 clock-hours of continuing education acceptable to the Texas State Board of Examiners of Professional Counselors (board) during each 12 month period as described in §681.172 of this title (relating to Deadlines). At least three hours of the 12 hours must be directly related to counselor ethics or legal issues.

(1) A clock-hour shall be 60 minutes of attendance and participation in an acceptable continuing education experience.

(2) Continuing education

experiences acceptable to the board shall be those set forth in §681.174 of this title (relating to Types of Acceptable Continuing Education).

§681.174 Types of Acceptable Continuing Education.

(a) Continuing education undertaken by a licensee shall be acceptable if the experience falls in one or more of the following categories:

(1) participation in those sections of programs (e.g., institutes, seminars, workshops, and conferences) which employ didactic and experiential methods to increase skill and competence in counseling taught by persons who have licensure, education, or expertise in the subject being presented;

(2) participation in those sections of programs (e.g., institutes, seminars, workshops, and conferences) which are designed to increase professional knowledge related to the practice of professional counseling;

(3) teaching or consultation in graduate level programs such as institutes, seminars, workshops, and conferences which are designed to increase professional knowledge related to the practice of professional counseling provided that such teaching and consultation is not part of, or required as a part of, one's employment;

(4) completion of graduate academic courses in areas supporting development of skill and competence in professional counseling at an accredited institution;

(5) participation in case supervision, management, or consultation provided that it:

(A) is not required as a part of a licensee's employment;

(B) is conducted according to stated training or didactic goals such as expertise in

specific techniques including supervision techniques or certification in specialty areas of counseling;

(C) is conducted by an appropriately state-licensed, state-certified, or state-registered mental health professional who meets board requirements for supervisors, demonstrates training and expertise in the specific area for which supervision is provided, and has received prior approval by the board for the program; and

(D) does not exceed six months in length;

(6) participation or teaching in programs directly related to counseling (e.g., institutes, seminars, workshops, or conferences) which are approved or offered by:

(A) an accredited college or university;

(B) a nationally recognized professional organization in the mental health field or its state or local equivalent organization; or

(C) a state or federal governmental agency.

(7) 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 or approved or offered by an accredited college or university; or

(8) participation in those sections of programs (e.g., institutes, seminars, workshops, and conferences) offered by persons approved by the board as continuing education providers.

§681.175 Procedures for Approval of programs.

Individuals and organizations may initiate requests to the Texas State Board of Examiners of Professional Counselors (board) for approval and

hour credits of specific programs for continuing education credit either before or after these programs occur. Approval shall be given only for the specific program described in the request.

(1) Each approved provider or licensee is responsible for providing the information necessary for the board to make a determination of the applicability of the program to the continuing education requirements upon request by the board.

(2) Sponsors may initiate requests and shall, when approval is obtained in advance, announce prior to the commencement of the continuing education activity, the number of hours approved and the content of the continuing education activity as submitted and pre-approved by the board. The sponsor shall provide each participant with written documentation of attendance which includes the participant's name, the number of approved continuing education hours, the title and date(s) of the program as approved by the board, and the signature of the sponsor.

§681.176 Pre-Approved Providers.

(a) Continuing education providers may apply for provider pre-approval to provide continuing education on forms provided by the board. Board approval of provider applications will be determined by review of the application and determination of applicants' ability to comply with board rules. Board pre-approvals are effective for twelve months from the date of board approval. New applications must be submitted to the board annually.

(1) Pre-approved providers of continuing education must comply with board requirements as set out in §681.174 of this title (relating to Types of Acceptable Continuing

Education) and §681.177 of this title (relating to Determination of Clock-hour Credits).

(2) Pre-approved providers of continuing education must maintain records of all continuing education activities for a period of five years including:

(A) resumes of all presenters;

(B) complete course descriptions and objectives.

(C) teaching methods employed;

(D) attendance sheets for each course;

(E) sample certificates of attendance; and

(F) evaluation documents from each participant for the specific experience.

(3) Failure to comply with board record keeping requirements or failure to comply with requirements of instructor or course qualifications is a violation of board rules and may result in termination of approval status or denial of renewal of pre-approved provider agreement. No documentation of continuing education is to be submitted to the board without written request.

(4) Pre-approved providers are subject to audit of all continuing education records upon written request by the board. Upon receipt of written notice of audit the provider will submit all requested records of continuing education to the board within ten working days. Failure to provide documentation as requested of submission of fraudulent documents will be violation of board rules and may result in termination of approval status.

(5) Upon receipt and audit of documents submitted by the provider, the board will notify the provider of the results of the audit. The board may inform the provider of any corrective action deemed

necessary to ensure future compliance with board rules, termination of current approval or deny future applications based on a finding of noncompliance with this chapter.

§681.177. Determination of Clock-hour Credits.

The Texas State Board of Examiners of Professional Counselors (board) shall credit continuing education experiences as follows.

(1) Parts of programs which meet the criteria of §681.173 of this title (relating to Hour Requirements for Continuing Education) shall be credited on a one-for one basis with one clock-hour of credit for each clock-hour spent in the continuing education activity.

(2) Teaching in programs which meet the board's criteria as set out in §681.174 of this title (relating to Types of Acceptable Continuing Education) shall be credited on the basis of one clock-hour of credit for one clock-hour taught plus two clock-hours credit for preparation for each hour actually taught. No more than 8 hours of the 12 clock hour continuing education requirement can be credited under this option. Credit may be granted for the same presentation only once during a 12-month period.

(3) Completion of academic work at an institution which meets the accreditation standards acceptable to the board shall be credited on the basis of 15 clock-hours of credit for each semester hour, 10 clock-hours of credit for each quarter hour completed and for which a passing grade was received.

(4) No more than four clock-hours of the 12 clock-hours continuing education requirement, can be obtained through case supervision, management, and consultation programs set out in

§681.174(5) of this title.

(5) No more than three clock-hours of the 12 clock-hours required can be obtained through independent study.

§681.178. Reporting of Continuing Education.

The requirements for reporting continuing education shall be as follows:

(1) A license shall report all continuing education participation on a form provided by the Texas State Board of Examiners of Professional Counselors (board) which the license shall complete and sign. No individual documents of participation in continuing education are to be submitted to the board unless requested in writing.

(2) The board will monitor a license's compliance with continuing education requirements by the use of random audit. Licensee's will be notified in writing if they have been selected for a continuing education activities are not to be submitted to the board unless a written Notice of Audit is received informing the licensee that he or she has been randomly selected for a document audit. Upon receipt of a Notice of Audit the licensee will be required to submit all appropriate documentation to substantiate compliance with the board's continuing education requirements within 15 working days of receipt of notice.

(3) The board shall notify the licensee of the results of the audit in writing.

(4) The licensee is responsible for maintaining continuing education records for a period of two years.

(5) An audit shall be automatic for a licensee who was determined to be non-compliant the immediately preceding audit.

(6) Appropriate continuing

education supporting documentation includes;

(A) for a program attended, certificate of attendance;

(B) for teaching or consultation in approved programs, a letter on the sponsoring agency's letterhead giving name of program, location, dates, and subjects taught and giving total clock-hours of teaching or consultation;

(C) for completion of academic work from accredited schools, evidence of course credit;

(D) for official auditing of a graduate level course at a regionally accredited academic institution or professor which includes the actual number of clock-hours attended.

(7) Failure to provide documentation as requested by the board or providing fraudulent documentation is a violation of board rules and may result in disciplinary action including revocation of license.

§681.179. Activities Unacceptable as Continuing Education.

The Texas State Board of Examiners of Professional Counselors (board) will not give continuing education credit to any counselor for:

(1) education incidental to the regular professional activities of a counselor such as learning occurring from experience or research;

(2) organizational activity such as serving on committees or councils or as an officer in a professional organization;

(3) meetings and activities such as in-service programs which are required as a part of one's job.

(4) teaching or consultation which is part of one's employment;

(5) any experience which does not fit the types of acceptable continuing education in §681.174 of

this title (relating to Types of Acceptable Continuing Education); or

(6) any continuing education activity completed before or after the 12 month period for which the continuing education credit is submitted except as allowed in §681.124(e) of this title (relating to Late Renewal).

SUBCHAPTER L. COMPLAINTS AND VIOLATIONS

§681.191. Purpose.

The purpose of this subchapter is to set out valid causes for discipline of a licensee and the procedures for reporting alleged violations to the Licensed Professional Counselor Act (Act) and board rules.

§681.192. Disciplinary Action; Notices.

(a) The Texas State Board of Examiners of Professional Counselors (board) may deny, revoke, temporarily suspend, or suspend a license, or may probate disciplinary action, or may issue a reprimand to a person who has:

(1) violated any provision of the Licensed Professional Counselor Act (Act);

(2) violated any rule adopted by the board;

(3) is legally committed to an institution because of mental incompetence from any cause; or

(4) offers to pay or agree to accept any remuneration, directly or indirectly, to or from any person or entity for securing or soliciting a patient or patronage.

(b) Prior to institution of formal proceedings to revoke, or suspend a license, the board shall give written notice to the licensee by personal service or certified mail, return receipt requested, of the facts or

conduct alleged to warrant revocation or suspension. The notice shall inform the licensee or applicant of the opportunity to retain legal representation. The licensee or applicant shall be given the opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(c) If denial, revocation, or suspension of license is proposed, the board shall give written notice by certified mail, return receipt requested; regular mail, or personal delivery of the basis for the proposal and 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) Receipt of a notice under subsection (b) or (c) of this section is presumed to occur on the tenth working day after the notice is mailed to the last address known to the board unless another date is reflected on a United States Postal Service return receipt.

(e) No notice or hearing is required for the board to issue a reprimand other than notice to the licensee of the board meeting where the reprimand will be considered.

(f) No prior notice or hearing is required to temporarily suspend a license; however, appropriate notice shall be given prior to the hearing held after temporary suspension of the license in accordance with §16(A) if the Act.

681.193. Violations by Non-Licensed Persons.

(a) A person commits an offense if he or she knowingly or intentionally:

(1) engages in the practices of professional counseling without

holding a license issued by the board;

(2) engages in the practice of professional counseling after the person's license has expired;

(3) represents himself or herself by the title "Licensed Professional Counselor" or "Licensed Counselor" without being licensed by the board;

(4) represents the person by the title "Licensed Professional Counselor – Art Therapist," "Art Therapist," or by the initials "L.P.C. – A.T." or "A.T." without being licensed with an art therapy specialty designation under the Act, §10A or §14(s); or

(5) makes use of any title, words, letters, or abbreviations that imply that the person is licensed under the Act if the person is not licensed under the Act.

(b) Such an offense is a Class B misdemeanor.

(c) Subsection (a)(4) of this section takes effect on September 1, 1996.

§681.194. Power to Sue.

The Texas State Board of Examiners of Professional Counselors may institute a suit in its own name or avail itself of any other action, proceeding, or remedy authorized by law to enjoin the violation of the Licensed Professional Counselor Act. The suit is in addition to any other action, proceeding, or remedy authorized by law.

§681.195. Complaint Procedures.

(a) A person wishing to report an alleged violation of the Licensed Professional Counselor Act (Act) or the rules by a licensee or other person shall notify the executive secretary. The initial notification may be in writing, by telephone, or by personal visit to the Texas State Board of Examiners of Professional Counselors (board) office.

(b) A complaint shall not be accepted by the board office if the official form is not filed within five years of the date of termination of the counselor-client relationship which gave rise to the alleged violations. If the client was a minor at the time of the alleged violation, this time limitation does not begin to run until the client reaches the age of 18 years. A complainant shall be notified of the non-acceptance of the untimely complaints. This time limitation shall not apply to complaints involving violations of §681.33 if this title (relating to Sexual Misconduct) or the board's previous rules relating to sexual activities.

(c) Upon receipt of a complaint, the executive secretary shall send an acknowledgement letter to the complainant and an official form which the complainant must complete and return to the board before further action can be taken. The executive secretary may accept an anonymous complaint if there is sufficient information for the investigation.

(d) A complaints committee shall be appointed to work with the executive secretary to:

(1) review each complaint and determine whether the complaint fits within the category of a serious complaint affecting the health and safety of clients or other persons;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(4) resolve the issues of the complaint which arise under the Act or this chapter.

(e) Prior to or during an investigation, the executive secretary or his or her designee shall request a

notarized response from the licensee or person against whom an alleged violation has been filed and gather information required by the complaints committee of the board. The licensee or person against whom an alleged violation has been filed must respond within 15 working days to the executive secretary's request.

(f) If it is determined that there are sufficient grounds to support the complaint, the matters in question shall be investigated. The executive secretary or the committee may initiate the investigation.

(g) If the committee determines that there are insufficient grounds to support the complaint, the committee shall dismiss the complaint and give written notice of the dismissal to the licensee or person against whom the complaint has been filed and the complainant.

(h) If the committee determines that a violation exists and that the violation is not a serious complaint affecting the health and safety of clients or other persons, the committee may resolve the complaint by informal agreement with the violator to correct the violation.

(i) The board shall use a private investigator only if the Texas Department of Health's investigators available to the board have a conflict of interest.

(j) Within each 90 days, the board shall notify a complainant of the status of his or her complaint unless the notice would jeopardize an undercover investigation until the complaint is finally resolved or closed.

(k) If after due investigation a complaint or allegation is not resolved by the committee of the board, the committee may recommend that the license be revoked, suspended, or denied or that other appropriate actions be

authorized by law be taken.

(l) The board shall dispose of all complaints in a timely manner. After review of each complaint, the executive secretary shall establish a schedule for conducting each phase of the complaint not later than the 30th day after the date the complaint is received. The schedule shall be kept in the information file for the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(m) The executive secretary shall notify the complaints committee of a complaint that extends beyond the time prescribed for resolving the complaint.

§681.196. Licensing of Persons With Criminal Backgrounds.

(a) Purpose. This section is designed to set out guidelines and criteria for the eligibility of persons with criminal backgrounds to obtain and retain licenses as counselors.

(b) Felony conviction. The Texas State Board of Examiners of Professional Counselors (board) shall consider the felony conviction of a licensee or applicant as grounds for the disciplinary action against the license and shall review the conviction.

(c) The board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee. In considering whether a criminal conviction directly relates to the

profession of counseling, the board shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to practice counseling.

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a counselor. In making this determination, the board will apply the criteria outlined in Texas Civil Statutes, Article 6252-13c, §4(c)(1)-(7).

(d) The following felonies and misdemeanors relate to the license of a counselor because these criminal offenses indicate an inability or a tendency to be unable to perform as a counselor:

(1) the misdemeanor of knowingly or intentionally practicing counseling without a license;

(2) an offense involving moral turpitude;

(3) the misdemeanor of failing to report child abuse or neglect;

(4) a misdemeanor of involving deceptive business practices;

(5) the offense of assault or sexual assault;

(6) the felony offense of insurance claim fraud;

(7) a misdemeanor and/or a felony offense under various titles of the Texas Penal Code:

(A) concerning Title 5 offenses against the person;

(B) concerning Title 7 offenses against property;

(C) concerning Title 9

offenses against public order and decency;

(D) concerning Title 10 offenses against public health, safety, and morals; and

(E) concerning Title 4 offenses of attempting or conspiring to commit any of the offenses in subparagraphs (A)-(D) of this paragraph; or

(8) any other misdemeanor or felony which would indicate an inability or a tendency to be unable to perform as a counselor and which would promote the intent of the License Professional Counselor Act (Act).

(e) Procedures for disciplinary action to persons with criminal backgrounds.

(1) The board's executive secretary will give written notice to the person that the board intends to take disciplinary action after a hearing in accordance with the provisions of the Administrative Procedure Act (APA), and the board's hearing procedures in Subchapter M of this chapter (relating to Formal Hearings).

(2) If the board takes disciplinary action under these sections, the executive secretary will give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, for review of the evidence presented to the board and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the board's action is final and appealable.

§681.197. Suspension, Temporary Suspension, Revocation, or Denial.

(a) If the Texas State Board of

Examiners of Professional Counselors (board) suspends a license, the suspension shall remain in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.

(b) If a suspension overlaps a license renewal date, the suspended counselor shall comply with the renewal procedures in this chapter; however, the suspension shall remain in effect pursuant to subsection (a) of this section.

(c) Upon revocation, suspension or non-renewal of a license, a licensee shall return his or her license certificate and all existing renewal cards to the board.

(d) The board or the complaints committee of the board may temporarily suspend a license.

(1) The license may be suspended without prior notice to the licensee and without a prior hearing.

(2) In order to temporarily suspend a license, the board or committee must determine that by continuation in practice a licensee would constitute a continuing and imminent threat to the public welfare.

(3) This determination shall be made from the evidence or information presented to the board or committee.

(4) The board or committee shall issue an order temporarily suspending the license. The order shall be effective upon delivery to the licensee or at a later date specified in the order.

(5) Proceedings for a formal hearing under Subchapter M of this chapter must be initiated prior to, or simultaneously on, the effective date of the temporary suspension.

(A) The Administrative Procedure Act, Government Code, Chapter 2001, shall apply to a hearing under this subsection.

(B) If there is a conflict between the requirement of the Administrative Procedure Act and the requirements of §16A of the Act shall govern. If there is a conflict between Subchapter M of this chapter and this subsection, this subsection shall govern.

(6) A preliminary hearing shall be held not later than the 14th day after the effective date of the temporary suspension to determine if probable cause exists to find that a continuing and imminent threat to the public welfare still exists. The State office of Administrative Hearings is hereby authorized to determine if probable cause exists.

(7) A final hearing shall be held not later than the 61st day after the effective date of the temporary suspension.

(A) The purpose of the hearing shall be to determine whether the continuation of practice of the licensee would constitute a continuing and imminent threat to the public welfare.

(B) In determining whether there is a continuing and imminent threat to the public welfare, the board shall consider whether a violation of state law or this chapter exists.

(C) If such a threat exists, the board shall enter an order suspending the license of the licensee.

(D) A suspension shall remain in effect in accordance with subsection (a) of this section.

(8) The time periods for holding a preliminary hearing or a final hearing shall be tolled during the period of time which the licensee requests for the purpose of obtaining discovery. The time periods may also be waived by mutual agreement of the licensee and the authorized representative of the board. If a preliminary hearing or final hearing

of final hearing is not held in accordance with the time periods stated in this subsection (unless tolled or waived), the temporary suspension shall become null and void upon the date on which the hearing was required to be held under §16A of the Act.

§681.198. Informal Disposition.

(a) Informal disposition of any complaint or contested case involving a licensee or an applicant for licensure may be made through an informal settlement conference held to determine whether an agreed settlement order may be approved.

(b) If the executive secretary or the complaints committee of the Texas State Board of Examiners of Professional Counselors (board) determines that the public interest might be served by attempting to resolve a complaint or contested case with an agreed order in lieu of a formal hearing, the provisions of this section shall apply. A licensee or applicant may request an informal settlement conference; however, the decision to hold a conference shall be made by the executive secretary or the complaints committee.

(c) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing.

(d) The executive secretary shall decide upon the time, date and place of the informal settlement conference, and provide written notice to the licensee or applicant of the same. Notice shall be provided no less than 15 working days prior to the date of the informal settlement conference by certified mail, return receipt requested to the last known address of the licensee or applicant or by personal delivery. The 15 working days shall begin on the same date of mailing or personal delivery. The licensee or applicant may waive the 15-day notice requirement.

(e) The notice shall inform the licensee or applicant of the nature of the alleged violation, that the licensee may be represented by legal counsel, that the licensee or applicant may offer the testimony of witnesses and present other evidence as may be appropriate, that committee members may be present, that the board's legal counsel or a representative of the Office of the Attorney General will be present, that the licensee's or applicant's attendance and participation is voluntary, that the complainant and any client involved in the alleged violations may be present, and that the settlement conference shall be canceled if the licensee or applicant notifies the executive secretary that he or she or his or her legal counsel will not attend. A copy of the board's rules concerning informal disposition shall be enclosed with the notice of the settlement conference.

(f) The notice of the settlement conference shall be sent by certified mail, return receipt requested, to the complainant at his or her last known address or personally delivered to the complainant. The complainant shall be informed that he or she may appear and testify or may submit a written statement for consideration at the settlement conference. The complainant shall be notified if the conference is canceled.

(g) Members of the complaints committee may be present at a settlement conference.

(h) The settlement conference shall be informal and shall not follow the procedures established in this chapter for contested cases and formal hearings.

(i) The licensee, the licensee's attorney, committee members, and the board may question witnesses, make relevant statement, present statements of persons not in attendance, and present such other

evidence as may be appropriate.

(j) The board's legal counsel or an attorney from the Office of the Attorney General shall attend each settlement conference. The committee members or executive secretary may call upon the attorney at any time for assistance in the settlement conference.

(k) The licensee shall be afforded the opportunity to make statements that are material and relevant.

(l) Access to the board's investigate file may be prohibited or limited in accordance with the Open Records Act, Government Code, Chapter 552 and the Administrative Procedure Act (APA).

(m) At the discretion of the executive secretary or the committee members, a tape recording may be made of none or all of the settlement conference.

(n) The committee members or the executive secretary shall exclude from the settlement conference all persons except witnesses during their testimony, the licensee, the licensee's attorney, and board staff.

(o) The complainant shall not be considered a party in the settlement conference but shall be given the opportunity to be heard if the complainant attends. Any written statement submitted by the complainant shall be reviewed at the conference.

(p) At the conclusion of the settlement conference, the committee members or executive secretary may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the Licensed Professional Counselor Act (Act). The committee members may also conclude that the board lacks jurisdiction, conclude that a violation of the Act or this chapter has not

been established, order that the investigation be closed, or refer the matter for further investigation.

(q) The licensee or applicant may either accept or reject at the informal settlement conference the settlement recommendations. If the recommendations are accepted, and agreed settlement order shall be prepared by the board office or the board's legal counsel and forwarded to the licensee or applicant. The order shall contain agreed findings of fact and conclusions of law. The licensee or applicant shall execute the order and return the signed order to the board office within 10 working days of his or her receipt of the order. If the licensee or applicant fails to return the signed order within the stated time period, the inaction shall constitute rejection of the settlement recommendations.

(r) If the licensee or applicant rejects the proposed settlement, the matter shall be referred to the executive secretary for appropriate action.

(s) If the licensee or applicant signs and accepts the recommendations, the agreed order shall be submitted to the entire board for its approval. Placement of the agreed order on the board agenda shall constitute only a recommendation for approval by the board.

(t) The identity of the licensee or applicant shall not be made available to the board had reviewed and accepted the agreed order unless the licensee or applicant chooses to attend the board meeting. The licensee or applicant shall be notified of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.

(u) Upon an affirmative majority vote, the board shall enter an agreed

order approving the accepted settlement recommendations. The board may not change the terms of a proposed order but may only approve or disapprove an agreed order unless the licensee or applicant is present at the board meeting and agrees to other terms proposed by the board.

(v) If the board does not approve a proposed agreed order, the licensee or applicant and the complainant shall be so informed. The matter shall be referred to the executive secretary for other appropriate action.

(w) A proposed agreed order is not effective until the full board has approved the agreed order. The order shall then be effective in accordance with the APA.

(x) A licensee's opportunity for an informal conference under this section shall satisfy the requirement of the APA, §2001.054(c).

(1) If the executive secretary or complaints committee determines that an informal conference shall not be held, the executive secretary shall give written notice to the licensee or applicant of the facts or conduct alleged to warrant the intended disciplinary action and the licensee or applicant shall be given the opportunity to show, in writing and as described in the notice, compliance with all requirements of the Act and this chapter.

(2) The complainant shall be sent a copy of the written notice. The complainant shall be informed that he or she may also submit a written statement to the board office.

§681.199. Default Orders.

(a) If a right to a hearing is waived under §681.192(c) of this title (relating to Disciplinary Action; Notices) or §681.213(d) of this title (relating to General), the Texas State Board of Examiners of Professional Counselors (board) shall consider an

order taking disciplinary action as described in written notice to the licensee or applicant.

(b) The licensee or applicant and the complainant shall be notified of the date, time, and place of the board meeting at which the default order will be considered. Attendance is voluntary.

(c) Upon an affirmative majority vote, the order imposing appropriate disciplinary action.

§681.200. Monitoring of Licensees.

(a) The executive secretary shall maintain a complaint tracking system.

(b) Each licensee that has had disciplinary action taken against his or her license shall be required to submit regularly scheduled at intervals appropriate to each individual situation.

(c) The executive secretary shall review the reports and notify the complaints committee if the requirements of the disciplinary action are not met.

(d) The complaints committee may consider more severe disciplinary proceedings if non-compliance occurs,

SUBCHAPTER M. FORMAL HEARINGS

§681.211. Purpose.

This subchapter covers the formal hearing procedures and practices that will be used by Texas State Board of Examiners of Professional Counselors (board) in handling denials, suspensions, temporary suspensions, probations, and revocations of a license and implements the contested case provisions of the Administrative Procedures Act.

§681.212. Definitions.

The following words and terms,

when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Administrative – A person within the State Office of Administrative Hearings who conducts hearing under this subchapter on behalf of the board.

Contested case – A proceedings in accordance with Administrative Procedures Act (APA) and this chapter, including but not restricted to rule enforcement and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjudicative hearing.

Formal hearing – A hearing or proceeding in accordance with this subchapter and includes a contested case as defined in this section to address the issues of contested case.

Licensee – Any person licensed by the board.

Pleading – Any written allegation filed by a party concerning its claim or position.

§681.213. General.

(a) The Texas State Board of Examiners of Professional Counselors (board) or complaints committee on its own motion or on request from a licensee or applicant may initiate a formal hearing. A formal hearing and all related proceedings shall be conducted in accordance with the provision of Administrative Procedures Act (APA), applicable state and federal statutes, and this chapter.

(b) A formal hearing shall be held in Travis County, Texas, unless otherwise determined by the administrative law judge (ALJ) or upon agreement of the parties.

(c) The complaints committee may determine whether a hearing

will be held before an ALJ of the board. If an ALJ is not utilized, the board shall conduct the formal hearing and contested case proceedings, and all references in this subchapter to the ALJ shall be references to the board.

§681.214. Notice.

(a) The administrative law judge (ALJ) shall ensure that notice of the formal hearing in accordance with the notice requirements of Administrative Procedures Act (APA) is given.

(b) If a party fails to appear or be represented at a hearing or proceeding after receiving notice:

(1) the ALJ may proceed with the hearing or proceeding or take whatever action is fair and appropriate under the circumstances; and

(2) the applicant or licensee is deemed to be in agreement with the allegations and proposed action and to have waived the right to a hearing. Appropriate disciplinary action may be taken by the board.

§681.215. Parties to the Hearing.

(a) The parties to a hearing shall be the applicant or licensee and the complaints committee of the Texas State Board of Examiners of Professional Counselors (board).

(b) A party has the privilege to participate fully in any pre-hearing and formal hearing, to appeal as provided by law, and to perform any and all duties and privileges provided by Administrative Procedures Act (APA) and other applicable laws.

(c) A party may appear personally or be represented by counsel.

§681.216. Subpoenas.

(a) On the written request of any party to the hearing, the executive

secretary of the Texas State Board of Examiners of Professional Counselors (board) shall issue a subpoena to require the attendance of witnesses or the production of documents. The administrative law judge (ALJ) may also issue any necessary subpoena may be served by any person authorized to serve subpoenas under the Civil Practice Remedies Code.

(b) All procedures relating to subpoenas shall be in accordance with Administrative Procedure Act (APA).

(c) A party or witness may seek to quash the subpoena or move for a protective order as provided in the Texas Rules of Civil Procedure.

(d) Documents include books, papers, accounts, and similar materials or objects.

(e) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled shall be paid for mileage, transportation, meals, and lodging expenses and fee of \$10 per day in accordance with the APA.

§681.217. Depositions.

The taking and use of depositions in any contested case shall be governed by the Administrative Procedure Act (APA).

§681.218. Pre-hearing Conferences.

(a) In a contested case, the administrative law judge (ALJ), on his or her own motion or the motion of a party, may direct the parties, their attorneys, or representatives to appear at a specified time and place for a conference prior to the hearing for the purpose of:

- (1) the formulation and simplification of issues;
- (2) the necessity or desirability of amending the pleadings;
- (3) the possibility of making

admissions or stipulations;

(4) the procedure at the hearing;

(5) specifying the number of witnesses;

(6) the mutual exchange of prepared testimony and exhibits;

(7) designation of parties; and

(8) other matters which may expedite the hearing.

(b) The ALJ shall conduct the pre-hearing conference in such manner and with the necessary authority to expedite the conference while reaching a fair, just, and equitable determination of any matters or issues being considered.

(c) The ALJ shall have the minutes of the conference recorded in an appropriate manner and shall issue whatever orders are necessary covering the said matters or issues.

(d) Any action taken at the pre-hearing conference shall be reduced to writing, signed by the ALJ and the parties, and made a part of the record.

§681.219. Hearing Procedure

(a) The administrative law judge's (ALJ) duties. The ALJ shall preside over and conduct the hearing. On the day and time designated for the hearing, the ALJ shall:

(1) convene and call the hearing to order;

(2) state the purpose of and the legal authority for the hearing;

(3) announce that a record of the hearing will be made;

(4) outline the procedure and order of presentation that will be followed;

(5) administer oaths to those who intend to testify; and

(6) take any and all other actions as authorized by applicable law and this subchapter to provide for a fair, just, and proper hearing.

(b) Order of presentation.

(1) After making the necessary introductory and explanatory remarks on the purpose of and other matters related to the hearing, the ALJ will begin receiving testimony and evidence from the witnesses.

(2) Each party may present evidence and testimony and cross-examine or ask clarifying questions of any witness who presents evidence or testimony.

(3) In the request for relief or action of any kind, the party seeking such relief or action has the burden of proving entitlement to the same; provided, however, that the order of proceeding may be altered or modified by the ALJ either upon agreement of the parties or upon his or her own motion when such action will expedite the hearing without prejudice to any party.

(4) When the party first proceeding finishes his or her case, the remaining party or parties will be allowed to present evidence and testimony in the same manner. Each witness is subject to cross-examination and clarifying questions by other parties and the ALJ.

(5) The ALJ may limit the number of witnesses whose testimony will be repetitious, and the ALJ may also establish time limits for testimony so long as all viewpoints are given a reasonable opportunity to be expressed.

(6) The ALJ, at his or her discretion, may allow final arguments or take the case under advisement, and shall note the time and close the hearing. For sufficient cause, the ALJ may hold the record open for a stated number of days for the purpose of receiving additional evidence into the record.

(c) Consolidation. The ALJ, upon his or her own motion or upon motion by any party, may consolidate for hearing two or more

proceedings which involve substantially the same parties or issues. Proceedings before the agency shall not be consolidated without consent of all parties to such proceedings unless the ALJ finds that such consolidation will be conducive to a fair, just, and proper hearing and will not result in unwarranted expense or undue delay.

(d) Conduct and decorum during the hearing. Every party, witness, attorney, representative, or other person shall exhibit in all hearings proper dignity, courtesy, and respect for the ALJ and all other persons participating in or observing the hearing. THE ALJ is authorized to take whatever action he or she deems necessary and appropriate to maintain the proper level of decorum and conduct, including, but not limited to, recessing the hearing to be reconvened at another time or place or excluding from the hearing any party, witness, attorney, representative, or other person for such period and upon such conditions as the ALJ deem fair and just.

(e) The hearing record. The hearing record will include:

(1) all pleadings, motions, and intermediate rulings;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings of them;

(5) proposed findings and exceptions;

(6) any decision, opinion, or report by the ALJ; and

(7) all staff memoranda or data submitted to or considered by the ALJ or members of the agency who are involved in making the decision.

(f) Recording the hearing. The

ALJ will keep either a stenographic or other taped record of the hearing proceeding. In the event an independently contracted court reporter is utilized in the making of the record of the proceedings, the Texas State Board of Examiners of Professional Counselors (board) shall bear the cost of the per diem or other appearance fee for such reporter. Any party desiring a written transcript of the proceedings shall contract directly with such court reporter and be responsible for payment of same pursuant to the authority of the Administrative Procedures Act (APA). In those cases when a tape recording of the formal hearing is made, the board shall make such recording available to any party requesting permission to hear or, with appropriate protective measures, allow such recording to be duplicated. Upon appeal of any final order of the board necessitating the forwarding of the record to a court of law, the board may assess the cost of the transcript to the appealing party.

(g) Rules of evidence. The ALJ will apply the rules of evidence under the APA and also the following rules.

(1) Consolidation. The ALJ may consolidate the testimony of parties or persons if the evidence can be effectively consolidated into one document or the testimony of one witness. The standard by which the ALJ should judge this consolidation is whether each party or person can offer unique or new evidence that has not been previously introduced. Any party, under oath, may make an offer of proof of the testimony or evidence excluded through consolidation by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing.

(2) Documentary evidence. Documentary evidence should be

presented in its original form but if the original is not readily available, documentary evidence may be received in the form of copies or excerpts. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the ALJ may limit those admitted to a number which is typical and representative, and may, at his or her discretion, require the abstracting of the relevant data from the documents and presentation of the abstracts in the form of exhibits; provided, however, that before making such requirement, the ALJ shall require that all parties of record or their representatives be given the right to examine the documents from which such abstracts were made. Any party may make an offer or proof of the documents which are excluded by a ALJ's decision to remove only typical or representative documents.

(3) Exhibits.

(A) Form. Exhibits of documentary character shall be limited to facts material and relevant to the issues involved in a particular proceeding, and the parties shall make a reasonable effort to introduce exhibits which will not unduly encumber the files and records of the board.

(B) Tender and service. The original or each exhibit offered shall be tendered to the ALJ or a designee for identification and shall be offered to the parties for their inspection prior to offering or receiving the same into evidence.

(C) Excluded exhibits. In the event an exhibit has been identified, objected to, and excluded, it shall be given an exhibit number for purposes of identification and shall be included in the record under seal.

(D) After hearing. Unless specifically directed by the

ALJ, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing except in a reopened hearing or a rehearing.

(4) Admissibility of prepared testimony and exhibits. When a proceeding will be expedited and the interests of the parties will not be prejudiced substantially, evidence may be received in written form. The prepared testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read or received as an exhibit, upon the witness being sworn and identifying the same as a true and accurate record of what he/or her testimony would be if he or she were to testify orally. The witness shall be subject to clarifying questions and to cross-examination and his or her prepared testimony shall be subject to a motion to strike either in whole or in part.

(5) Offer of proof. When testimony is excluded by the ALJ, the party offering such evidence shall be permitted to make an offer of proof by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point to review by the board. The ALJ may ask such questions of the witness as he or she deems necessary to satisfy himself or herself that the witness would testify as represented in the offer of proof. An alleged error in sustaining any objections to questions asked on cross-examination may be preserved without making an offer of proof.

(6) Official notice. Official notice by the ALJ of the board shall be governed by the APA. Official notice may be taken of any statute, ordinance, or duly promulgated and adopted rules or regulations of any governmental agency. The ALJ shall

indicate during the course of a hearing that information of which he or she will take official notice. When an ALJ's findings are based upon official notice of material fact not appearing in the evidence of record, the examiner shall set forth in his or her proposal for decision those items with sufficient particularity so as to advise the parties of the matters which have been officially noticed. The parties shall have the opportunity to show to the contrary through the filing of exceptions to the ALJ's proposal for decision.

§681.220. Action After the Hearing.

(a) Reopening of hearing for new evidence.

(1) The Texas State Board of Examiners of Professional Counselors (board) may reopen a hearing where new evidence is offered which was unobtainable or unavailable at the time of the hearing.

(2) The board will reopen a hearing to include such new evidence as part of the record if the board deems such evidence necessary for a proper and fair determination of the case. The reopened hearing will be limited to only such new evidence.

(3) Notice and procedural requirements will be the same as for the original hearing.

(b) Proposal for decision.

(1) The administrative law judge (ALJ) shall prepare the proposal and provide copies of the same to all parties.

(2) Each party having the right and desire to file exceptions and briefs shall file them with the ALJ within the time designated by the ALJ.

(3) Parties desiring to do so shall file written replies to these exceptions and briefs as soon as possible after receiving same and

within the time designated by the ALJ.

(4) All exceptions and replies to them shall be succinctly stated.

(c) Pleading after close. At any time after the record has been closed in a contested case, and prior to the board's decision becoming final in such case, all briefs, exceptions, written objections, motions (including motion for rehearing), replies to the foregoing, and all other written documents shall be filed with the ALJ. The part filing such instrument shall provide copies of the same to all other parties of record by first-class United States mail or personal service and certify, in writing thereon, the names and addresses of the parties to whom copies have been furnished, as well as the date and manner of service.

(d) Final orders or decisions.

(1) The final order or decision will be rendered by the board. The board may deny, suspend, probate, or revoke a license as it deems appropriate and lawful. A decision of the board may include

any requirement to be imposed upon the licensee or applicant which is related to the individual's practice as a licensee and is deemed by the board to be appropriate and lawful.

(2) To protect the public interest and to ensure that appropriate principles govern the decisions of the board, it is the policy of the board to change a finding of fact or conclusion of law or to modify the proposed order of an administrative law judge when the board determines that the proposed order is:

(A) against the weight of the evidence;

(B) based on misapplication or misinterpretation of laws, rules, or policies;

(C) based on insufficient review of the evidence;

(D) not sufficient to protect the public interest with respect to the recommended disciplinary action; or

(E) not appropriate recognition of whether or not rehabilitation of the licensee or applicant has occurred with respect to the

recommended disciplinary action.

(3) all final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law.

(4) All final orders shall be signed by the chairperson of the board; however, interim orders may be issued by the ALJ.

(5) A copy of all final orders and decisions shall be timely provided to all parties as required by law.

(e) Motion for rehearing. A motion for rehearing shall be governed by the Administrative Procedure Act (APA) or other pertinent statute and shall be addressed to the board and filed with the executive secretary.

(f) Appeals. All appeals from final board orders or decisions shall be governed by the APA or other pertinent statute and communications regarding any appeal shall be to the executive secretary of the board.

Effective 03/02/98

LAWS RELATING TO LPCs

1. Licensed Professional Counselor Act, VTCS, Article 4512g
2. Acts 1993, 73rd Legislature, Chapter 573, Section 2.06, amending #1 above concerning discipline (SB210)
3. Acts 1993, 73rd Legislature, Chapter 581, amending #1 (HB2741)
4. Health and Safety Code, Chapter 161, Subchapter K, Sections 161.131 - 161.137, concerning abuse, neglect, and unprofessional or unethical conduct in health care facilities (SB210, Article 1, found in Acts 1993, 73rd Legislature, Chapter 573)
5. Treatment Facilities Marketing Practices Act, Health and Safety Code, Chapter 164 (SB205, Article 2, found in Acts 1993, 73rd Legislature, Chapter 705)
6. Health and Safety Code, Section 311.0025, concerning audits of billing (SB207, Section 2.02 found in Acts 1993, 73rd Legislature, Chapter 903)
7. Health and Safety Code, Chapter 321, concerning the provision of mental health, chemical dependency, and rehabilitation services (SB 205, Article 1, found in Acts 1993, 73rd Legislature, Chapter 705)
8. Health and Safety Code, Chapter 611, concerning mental health records as amended by Acts 1993, 73rd Legislature, Chapter 903, Section 1.11 - 1.13 (SB207)
9. Penal Code, Section 21.14, concerning sexual exploitation by mental health services providers (SB210, Article 2, found in Acts 1993, 73rd Legislature, Chapter 573)
11. Education Code, Section 11.52(p), concerning Texas Education Agency rules on outside counselors (SB205, Section 7.01 found in Acts 1993, 73rd Legislature, Chapter 705)
12. VTCS, Article 4413(51), concerning sex offender treatment providers as amended by Acts 1993, 73rd Legislature, Chapter 591 (SB1130)
13. Family Code, Section 34.02(d), concerning professionals reporting child abuse
14. Health and Safety Code, Sections 161.091 - 161.093, concerning illegal remuneration as amended by Acts 1993, 73rd Legislature, Chapter 706 (SB211)
15. Acts 1993, 73rd Legislature, Chapter 669, Article 1, concerning the Health Professions Council (SB674)

Psychotropic Medication

<u>Family</u>	<u>Generic Name</u>	<u>Brand Name</u>
<u>Antidepressants & Antimanics</u>		
<i>Monoamine oxidase inhibitors (MAOIs)</i>	Isocarboxazid Phenelzine Tranlycypromine	Marplan Nardil Parnate
<i>Selective serotonin reuptake inhibitors (SSRIs)</i>	Fluoxetine Fluvoxamine Paroxetine Sertraline	Prozac Luvox Paxil Zoloft
<i>Tricyclic antidepressants (TCAs)</i>	Amitriptyline Clomipramine Desipramine Doxepin Imipramine Nortriptyline Propriptyline Trimipramine	Elavil Anafranil Norpramin, Pertofrane Adapin, Sinequan Tofranil Aventyl, Pamelor Triptil, Vivactil Surmonil
<i>Miscellaneous antidepressants</i>	Amoxapine Bupropion Maprotiline Mirtazapine Nefazodone Trazodone Venlafaxine	Asendin Wellbutrin Ludiomil Remeron Serzone Desyrel Effexor
<i>Antimanics</i>	Carbamazepine Gabapentin Lamotrigine Lithium Valproic acid Verapamil	Tegretol Neurontin Lamictal Eskalith, Lithane, Lithobid Depakene, Depakote, Epival Calan
<u>Antipsychotics</u>		
<i>Butyrophenones</i>	Droperidol Haloperidol	Inapsine Haldol
<i>Dibenzoxazepines</i>	Loxapine	Loxapac, Loxitane
<i>Dihydroindolones</i>	Molindone	Moban
<i>Diphenylbutylpiperidines</i>	Fluspirilene Pimozide	Imap Orap
<i>Phenothiazines</i>	Chlorpromazine Fluphenazine Mesoridazine	Largactil, Thorazine Moditen, Permitil, Prolixin Serentil

Psychotropic Medication

<u>Family</u>	<u>Generic Name</u>	<u>Brand Name</u>
<i>Phenothiazines (continued)</i>	Methotrimeprazine	Nozinan
	Pericyazine	Neuleptil
<i>Benzpdiazepines</i>	Clorazepate	Tranxene
	Diazepam	Valium
	Extazolam	ProSom
	Fluerazepam	Dalmane
	Ketazolam	Loftran
	Lorazepam	Ativan
	Midazolam	Versed
	Nitrazepam	Mogadon
	Oxazepam	Serax
	Prazepam	Centrax
	Quazepam	Doral
Temazepam	Restoril	
Triazolam	Halcion	
<i>Miscellaneous sedative-hypnotics</i>	Buspirone	BuSpar
	Choral Hydrate	Noctec
	Chormezanone	Trancopal
	Diphenhydramine	Benadryl
	Hydroxyzine	Atarax, Vistaril
	Paraldehyde	Paral
	Zolpiden	Ambien
<u>CNS Stimulants</u>		
<i>Amphetamines</i>	Amphetamine	Adderall
	Benzhetamine	Didrex
	Dextroamphetamine [dexamphetamine]	Dexedrine
	Methamphetamine [desoxyephedrine]	Desoxyn
<i>Amphetamine-like CNS stimulants</i>	Methylphenidate	Ritalin
	Pemoline	Cylert
<i>Miscellaneous (anorexiant) CNS stimulants</i>	Dexfenfluramine	Redux
	Diethypropion	Tenuate
	Fenfluramine	Ponderl, Pondimin
	Mazindol	Sanorex
	Phendimetrazine	Prelu-2
	Phenmetrazine	Preludin
	Phentermine	Ionamin

Medication Cross-Reference by Generic Name

Generic Name	Brand Name	Classification
Alprazolam	Xanax	Sedative-Hypnotic Benzodiazapine
Amitriptyline	Elavil	Antidepressant
Amobarbital	Amytal	Sedative-Hypnotic Barbiturate
Amoxpine	Asendin	Antidepressant
Amphetamine	Adderall	CNS Stimulant Amphetamine
Anileridine	Leritine	CNS Depressant
Benzhetamine	Didrex	CNS Stimulant Amphetamine
Bromazepam	Lectopam	Sedative-Hypnotic Benzodiazapine
Buopion	Wellbutrin	Antidepressant
Buspiron	BuSpar	Sedative-Hypnotic
Butabarbital	Butisol	Sedative-Hypnotic Barbiturate
Butorphanol	Stadol	CNS Depressant
Carbamazepine	Tegretol	Antimanic
Chloral Hydrate	Noctec	Sedative-Hypnotic
Chlordiazepoxide	Librium	Sedative-Hypnotic Benzodiazapine
Chlormezanone	Trancopal	Sedative-Hypnotic
Chlorpromazine	Largactil, Thorazine	Antipsychotic
Clomipramine	Anafranil	Antidepressant
Clorazepate	Tranxene	Sedative-Hypnotic Benzodiazapine
Clozapine	Clozaril	Antipsychotic
Codeine [methyldormine]		CNS Stimulant
Desipramine	Norpramine, Pertofrane	Antidepressant
Dexfenflouramine	Redux	CNS Stimulant
Dextroamphetamine [dexamphetamine]	Dexedrine	CNS Stimulant Amphetamine
Dezocine	Dalgan	CNS Depressant
Diacetylmorphine [diamorphine, heroin]		CNS Depressant
Diazepam	Valium	Sedative-Hypnotic Benzodiazapine
Diethylpropion	Tenuate	CNS Stimulant
Doxepin	Adapin, Sinequan	Antidepressant
Ethchlorvynol	Inapsine	Antipsychotic
Extazolam	Placidyl	Sedative-Hypnotic
Fenfluramine	ProSom	Sedative-Hypnotic Benzodiazapine
Fentanyl	Ponderl, Pondimin	CNS Stimulant
Flurazepam	Duragesic, Sunblimaze	CNS Depressant
Fluoxetine	Dalmane	Sedative-Hypnotic Benzodiazapine
Fluphenazine	Prozac	Antidepressant
Fluspirilene	Moditen, Permitil, Prolixin	Antipsychotic
Fluvoxamine	Imap	Antipsychotic
Haloperidol	Luvox	Antidepressant
Hydromorphone	Haldol	Antipsychotic
	Dilaudid	CNS Depressant

Medication Cross-Reference by Generic Name

Generic Name	Brand Name	Classification
Imipramine	Tofranil	Antidepressant
Ketazolam	Loftran	Sedative-Hypnotic Benzodiazapine
Levorphanol	Levo-Dromoran	CNS Depressant
Lithium	Eskalith, Lithane, Lithobid	Antimanic
Lorazepam	Ativan	Sedative-Hypnotic Benzodiazapine
Loxapine	Loxapac, Loxitane	Antipsychotic
Maprotiline	Ludiomil	Antidepressant
Mazindol	Sanorex	CNS Stimulant
Meperidine [pethidine]	Demerol	CNS Depressant
Mephobarbital	Mebaral	Sedative-Hypnotic Barbiturate
Meprobamate	Equanil, Miltown	Sedative-Hypnotic
Mesoridazine	Serentil	Antipsychotic
Methadone	Dolophine	CNS Depressant
Methamphetamine [desoxyephedrine]	Desoxyn	CNS Stimulant Amphetamine
Methaqualone	Quaalude	Sedative-Hypnotic
Methotrimeprazine	Nozinan	Antipsychotic
Methylphenidate	Ritlan	CNS Stimulant
Midazolam	Versed	Sedative-Hypnotic Benzodiazapine
Mirtazapine	Remeron	Antidepressant
Moclobemide	Manerix	Antidepressant
Risperidone	Risperdal	
Secobarbital	Seconal	Sedative-Hypnotic Barbiturate
Sertraline	Zoloft	Antidepressant
Temazepam	Restoril	Sedative-Hypnotic Benzodiazapine
Thiopropazine	Majeptil	Antipsychotic
Thioridazine	Mellaril	Antipsychotic
Thiotixene	Navane	Antipsychotic
Tranlycypromine	Parnate	Antidepressant
Trazodone	Desyrel	Antidepressant
Triazolam	Halcion	Sedative-Hypnotic Benzodiazapine
Trifluoperazine	Stelazine	Antipsychotic
Triflupramine	Vesprin	Antipsychotic
Trimipramine	Surmonil	Antidepressant
Valproic acid	Depakene, Depakote, Epival	Antimanic
Venlafaxine	Effexor	Antidepressant
Zolpidem	Ambien	Sedative-Hypnotic
Zuclopenthixol	Clopixol	Antipsychotic

Medication Cross-Reference by Brand Name

Brand Name	Generic Name	Classification
Inapsine	Droperidol	Antipsychotic
Ionamin	Phentermine	CNS Stimulant
Largactil	Chlorpromazine	Antipsychotic
Lectopam	Bromazepam	Sedative-Hypnotic Benzodiazapine
Leritine	Anileridine	CNS Depressant
Levo-Dromoran	Levorphanol	CNS Depressant
Librium	Chlordiazepoxide	Sedative-Hypnotic Benzodiazapine
Lithobid	Lithium	Antimanic
Loftran	Ketazolam	Sedative-Hypnotic Benzodiazapine
Loxapac	Loxapine	Antipsychotic
Loxitane	Loxapine	Antipsychotic
Ludiomil	Maprotiline	Antidepressant
Luminal	Phenobarbital	Sedative-Hypnotic Barbiturate
Luvox	Fluvoxamine	Antidepressant
M.O.S.	Morphine	CNS Depressant
Majeptil	Thiopropazine	Antipsychotic
Manerix	Moclobemide	Antidepressant
Mebaral	Mephobarbital	Sedative-Hypnotic Barbiturate
Mellaril	Thioridazine	Antipsychotic
Miltown	Meprobamate	Sedative-Hypnotic
Moban	Molindone	Antipsychotic
Moditen	Fluphenazine	Antipsychotic
Mogadon	Nitrazepam	Sedative-Hypnotic Benzodiazapine
Morphitec	Morphine	CNS Depressant
Narcan	Naloxone	CNS Depressant
Nardil	Phenelzine	Antidepressant
Navane	Thiotixene	Antipsychotic
Nembutal	Pentobarbital	Sedative-Hypnotic Barbiturate
Neuleptil	Pericyazine	Antipsychotic
Noctec	Chloral Hydrate	Sedative-Hypnotic
Norpramin	Desipramine	Antidepressant
?????????	Methotrimeprazine	Antipsychotic
Nubain	Nalbuphine	CNS Depressant
Numorphan	Oxymorphone	CNS Depressant
Omap	Pimozide	Antipsychotic
Oramorph-SR	Morphine	CNS Depressant
Tegretol	Carbamazepine	Antimanic
Tenuate	Diethylpropion	CNS Stimulant
Thorazine	Chlorpromazine	Antipsychotic
Tofranil	Imipramine	Antidepressant
Trancopal	Chlormezanone	Sedative-Hypnotic
Tranxene	Chlorazepate	Sedative-Hypnotic Benzodiazapine
Trexan	Naltrexone	CNS Depressant
Trilafon	Perphenazine	Antipsychotic
Triptil	Proripityne	Antidepressant
Valium	Diazepam	Sedative-Hypnotic Benzodiazapine
Versed	Midazolam	Sedative-Hypnotic Benzodiazapine

Medication Cross-Reference by Brand Name

Brand Name	Generic Name	Classification
Vesprin	Triflupromazine	Antipsychotic
Vivactil	Proripyline	Antidepressant
Wellbutrin	Bupropion	Antidepressant
Xanax	Alprazolam	Sedative-Hypnotic Benzodiazapine
Zoloft	Sertraline	Antidepressant
Zyprexa	Olanzapine	Antidepressant
	Codeine	CNS Depressant
	[methyldmorphine]	
	Diacetylmorphine	CNS Depressant
	[diamorphine, heroin]	