

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

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310:403-7-1. Responsibility

LBP's shall accept responsibility for the consequences of their work and ensure that their services are used appropriately. LBP's shall not participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation. LBP's shall not use their relationships with clients for personal advantage, profit, satisfaction, or interest.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

310:403-7-2. Competence

(a) **Behavioral health services.** LBP's shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience.

(b) **Testing.** LBP's shall know the limits of their competence and shall therefore perform only those testing and assessment services for which they have been trained. LBP's shall be familiar with related standardization and proper application and security of any technique utilized. LBP's using computer-based test interpretations shall be trained in the construct being measured and the specific instrument being used prior to using this type of computer application. LBP's shall ensure the proper use of assessment techniques by persons under their supervision.

(c) **Specialty.** LBP's shall not represent themselves as specialists in any aspect of behavioral health services, unless so designated by the Board.

(d) **Research.**

(1) LBP's shall plan, design, conduct, and report research only in a manner consistent with current, pertinent ethical principles put forth in the "Ethical Standards and Code of Conduct" governing Northamerican Association of Masters in Psychology (NAMPP), federal and state laws, rules, and scientific standards governing research with human subjects.

(2) The research principles of the NAMPP "Ethical Standards and Code of Conduct" are as follows:

(A) Principle 8: Research with Human and Animal Participants

(i) 8.1 Relevant research. The Masters in Psychology shall only undertake research pertaining to human subjects when such research contributes to psychology as a science and humankind in general. On the premise of this forethought, one conducts the research with the utmost concern for the dignity and welfare of their research participants.

(ii) 8.2 Informed consent in research. The Masters in Psychology shall make certain that research participants fully understand the conditions and comprehend the general nature of the research when requesting informed consent. Research that involves deception on the part of the researcher should in general be avoided, unless the perceived outcomes far exceed any perceived minimal adverse reactions and in either case a debriefing session suitable to the research will always be conducted.

(B) Principle 10: Teaching, Training & Research Publication

(i) 10.1 Candidness in research techniques. The Masters in Psychology shall make every effort to make available any and all appropriate materials supporting research materials and to readily disseminate results for replication.

(ii) 10.2 Proper supervision. The Masters in Psychology shall maintain proper supervision of their employees, subordinates, supervisees, and research assistants in the delegation of duties and shall make every ethically appropriate effort to ensure that only those individuals

competent to perform such services do so.

(e) **Impairment.** LBP's shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LBP's shall seek assistance for any such personal problem(s) with their physical, mental or emotional condition, and, if necessary, limit, suspend, or terminate their professional activities. If an LBP possesses a bias, disposition, attitude, moral persuasion or other similar condition that limits his or her ability to recommend a course of treatment or decision-making that is indicated, and under such circumstances where all other treatment and decision options are contra-indicated, then in that event the LBP shall not undertake to provide counseling and shall terminate the counseling relationship in accordance with this Chapter.

(f) **Knowledge of improper sexual contact.** If an LBP becomes aware that another LBP or LBP Candidate is violating Section 310:403-7-4, the LBP or LBP Candidate must, within a reasonable time, report the improper sexual contact to the Department in accordance with Section 310:403-31-2.

(g) **Evaluations.** LBP candidates and licensees may not perform forensic services, which include, but are not limited to, assessments, interviews, consultations, custody evaluations, reports, or expert testimony, or other such activity that is undertaken or conducted by the candidate or licensee in contemplation that the results may, or are intended to be, later furnished to a trier of fact or other decision maker, except under the following conditions:

(1) LBP candidates and licensees must demonstrate competence by certification, education or experience in the subject matter relevant to the issues in question and must certify in writing that they have complied with all applicable provisions of the Rules and Regulations (described in Sections 310:403-7-1, 310:403-7-2(a)(f), and 310:403-7-7(f)(1)(2)(3) of this Chapter.

(2) LBP candidates and licensees shall prepare a written report and include a separate section therein containing the author's findings and conclusions relative to their analysis. Additionally, the candidate or licensee must provide to the person who is the subject of their forensic analysis, and such other person or persons who has/have a legally recognizable right in the subject matter of the proceeding, which may be directly adversely affected by the findings and conclusions made by the candidate or licensee, a copy of the written report at no cost to the person or persons entitled to receive a copy of the written report pursuant to this section. The copy(ies) must be provided at least ten (10) days prior to the report's publication unless otherwise required by law or court order.

(3) LBP candidates and licensees shall maintain written records, in a form or format that is legible or readable to third persons, of all contacts and information received and used in the preparation of their report.

(4) LBP candidates and licensees must conduct a thorough examination of the person who is the subject of their forensic analysis, and such other person or persons who has/have a legally recognizable right in the subject matter of the proceeding, which may be directly adversely affected by the findings and conclusions made by the candidate or licensee, and must utilize a "face-to-face" interview of the person who is the subject of the forensic analysis, or any other such person who may be directly adversely affected by the findings and conclusions made by the candidate or licensee.

(5) LBP candidates and licensees must base their findings and conclusions only upon information gained by appropriate and lawful means. Interviews of minor children must be preceded by written consent from the joint-custodial parents or from the custodial parent or from the legal guardian or from the legal custodian appointed by the Court.

(6) LBP candidates and licensees who provide counseling services for a client may only provide fact witness testimony in forensic matters involving that client, unless otherwise required by law or court order. LBP candidates and licensees who provide mediation, parent coordinating assistance or any other neutral participation, may not undertake to provide counseling to any person(s) involved or directly affected by the LBP candidate's or licensee's role as a neutral participant. Fact witness testimony means evidentiary statements that are limited to direct observations made by the LBP candidate or licensee and shall not include conclusions, opinions or recommendations.

(7) Assessments, interviews, consultations, custody evaluations, reports or other activity not performed in contemplation that the results would be furnished to a trier of fact or decision maker, must be kept confidential and cannot be utilized in the formation or publication of an opinion by the candidate or licensee.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01; Amended at 20 Ok Reg 519, eff 1-6-2003 (emergency); Amended at 20 Ok Reg 2363, eff 7-11-2003; Amended at 23 Ok Reg 2374, eff 6-25-2006; Amended at 24 Ok Reg 1961, eff 6-25-2007; Amended at 26 Ok Reg 2023, eff 6-25-09]

310:403-7-3. Client welfare

(a) **Discrimination.** LBP's shall not, in the rendering of their professional services, participate in, condone, or promote discrimination on the basis of race, color, age, gender, religion or national origin.

(b) **Records.**

(1) **Requirement of records.** LBP's shall maintain verifiable records necessary for rendering professional services to their clients for at least five (5) years beyond termination of services. LBP's employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection will be deemed to be in compliance with this subsection.

(2) **Confidentiality.** LBP's shall maintain the confidentiality of any information received from any person or source about a client, unless authorized in writing by the client or otherwise authorized or required by law or court order.

(3) **Confidentiality of records.** LBP's shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any behavioral health services record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

(4) **Client access.** LBP's shall provide the client a copy of the client's record in accordance with state and federal laws. In situations involving multiple clients, access to records is limited to those parts of records that do not include confidential information related to another client.

(c) **Invasion of privacy.** LBP's shall not make inquiry into persons or situations not directly associated with the client's situation.

(d) **Private or Independent Practice.** No person may engage in the private or independent practice of behavioral practitioner work or open a facility with the intent of providing private or independent counseling practice unless that person:

(1) is licensed under this Act as a Licensed Behavioral Practitioner; and,

(2) has met all requirements of Section 310:403-15-2 of LBP Regulations; and

(3) has continued to meet all continuing education requirements set forth in Subchapter 21 of this Chapter.

(e) **Referral.**

(1) If LBP's determine they are unable to be of professional assistance to a client, the LBP shall not enter a behavioral health services relationship. LBP's shall refer clients to appropriate sources when indicated. If the client declines the suggested referral, the LBP shall terminate the relationship.

(2) LBP's shall not abandon or neglect current clients in treatment without making reasonable arrangements for the continuation of such treatment.

(3) When an LBP becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LBP's duty of responsibility to the current client, including a suspension of the LBP's license or any other situation or condition described in subchapter 3 of these rules, the LBP shall promptly notify the client in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the therapeutic relationship.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01; Amended at 23 Ok Reg 2374, eff 6-25-2006; Amended at 24 Ok Reg 1961, eff 6-25-2007; Amended at 26 Ok Reg 2023, eff 6-25-09]

310:403-7-4. Non-professional relations with clients

(a) **Dual relationships.** LBP's shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LBP reasonably suspects that he or she has inadvertently entered into a dual relationship the LBP shall record that fact in the records of the affected client(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LBP cannot readily refer the client to another counselor or other professional, the LBP shall complete one or more of the following measures as necessary to prevent the exploitation of the client and/or the impairment of the LBP's professional judgment:

(1) Fully disclose the circumstances of the dual relationship to the client and secure the client's written consent to continue providing counseling;

- (2) Consult with other professional(s) to understand the potential impairment to the LBP's professional judgment and the risk of harm to the client of continuing the dual relationship;
- (b) **Sexual contact.** The following restrictions apply to sexual contacts between LBPs and clients, students or supervisees.
- (1) **Current clients.** LBPs shall not engage in sexual contact with clients and shall not counsel persons with whom they have had a sexual relationship.
- (2) **Students and supervisees.** LBPs shall not engage in sexual contact with students or supervisees and shall not teach or supervise persons with whom they have had a sexual relationship.
- (c) **Providing counseling to persons of prior association.** LBPs shall not undertake to provide counseling to any person with whom the LBP has had any close personal relationship within the previous five (5) years.
- (d) **Interaction with former clients.** LBPs shall not knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former client for two (2) years after the termination of the counseling relationship. LBPs shall not engage in any activity that is or may be sexual in nature with a former client for at least five (5) years after the termination of the counseling relationship. LBPs shall not exploit or obtain an advantage over a former client by the use of information or trust gained during the counseling relationship.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01; Amended at 24 Ok Reg 1961, eff 6-25-2007]

310:403-7-4.1. Responsibility to supervisees

- (a) LBPs shall not exploit the trust and dependency of supervisees.
- (b) LBPs are cognizant of their potentially influential position with respect to supervisees, and shall not exploit the trust and dependency of such persons. LBPs, therefore, shall avoid dual relationships that impair their professional judgment or increase the risk of exploitation. Examples of such dual relationships include, but are not limited to, provision of counseling to supervisees, and business or close personal relationships with supervisees. Sexual intimacy with current supervisees is prohibited.
- (c) LBPs shall not permit supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.
- (d) LBPs shall not disclose supervisee confidences to anyone, except:
- (1) as mandated by law;
 - (2) in case of clear and imminent danger to a person or persons;
 - (3) where the professional counselor is a defendant in a civil, criminal, or disciplinary action arising from the supervision (in which case client confidences may be disclosed only in the course of that action);
 - (4) if there is a waiver previously obtained in writing, and then such information may be revealed only in accordance with the terms of the waiver.
 - (5) to the Department in reporting ethical or professional concerns as a part of the supervision agreement.

[Source: Added at 23 Ok Reg 2374, eff 6-25-2006]

310:403-7-5. Client fees and bartering

- (a) **Advance understanding.** LBPs shall clearly explain to clients, prior to entering the behavioral health services relationship, all financial arrangements related to professional services including the consequences for non-payment of fees.
- (b) **Bartering.** LBPs may participate in bartering for services only if the relationship is not exploitive, if the client requests it, if a clear written contract is established and if such arrangements are an accepted practice among professionals in the community.
- (c) **Tangible goods.** LBPs shall not barter for services rendered by the client. LBPs shall accept only tangible goods, at fair market value, in lieu of money for behavioral health services.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

310:403-7-6. Professional standards

- (a) **Violations of other laws.** It shall be unprofessional conduct for an LBP to violate a state or federal law if the law directly relates to the duties and responsibilities of the LBP or if the violation involves moral turpitude.

(b) **Drug and alcohol use.** LBPs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) **Updating.** LBPs shall notify the Department of any change in address, telephone number, and employment and shall make necessary adjustments on the Statement of Professional Disclosure, supplying an updated copy to the Department.

(d) **Candor to the Department.** An LBP, LBP candidate, or applicant for LBP licensure, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:403-31-3, shall not:

- (1) knowingly make a false statement of material fact;
- (2) fail to disclose a fact necessary to correct a misapprehension known by the LBP, LBP candidate or applicant for licensure to have arisen in the application or the matter under investigation; or
- (3) fail to respond to a demand for information made by the Department or any designated representative thereof, unless a request for a protective order has been first made pursuant to the provisions of Chapter 2 of this title, in which case the LBP, LBP candidate or applicant may await the decision concerning the issuance or denial of a protective order before making any response.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01; Amended at 21 Ok Reg 2747, eff 7-12-2004; Amended at 24 Ok Reg 1961, eff 6-25-2007]

310:403-7-7. Relations with the public and other professions

(a) **Misrepresentation.** LBPs shall not misrepresent nor accept the misrepresentation by others of the efficacy of the LBPs' professional services.

(b) **Credentials claimed.** LBPs shall claim or imply only the professional credentials possessed and shall be responsible for correcting any known misrepresentations of their credentials by others. Professional credentials include graduate degrees in behavioral health services or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, or any other credential that might indicate to the public the LBPs' additional knowledge or expertise in behavioral health services.

(c) **The use of doctoral degrees and the title "Doctor."** An LBP may use the doctoral degree and the title "Doctor" in advertising, practice and status as an LBP, only if the doctoral degree from a program in psychology and if the degree was granted by a regionally accredited college or university recognized by the United States Department of Education.

(d) **Advertisement.** When an LBP announces services or advertises, the LBP shall represent services to the public by identifying credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent. An LBP shall only advertise the highest degree earned in behavioral health services or a closely related field from a regionally accredited college or university recognized by the U.S. Department of Education. All advertisements or announcements of behavioral health services including telephone directory listings by an LBP shall clearly state the LBP's licensure status by the use of a title such as "LBP", or "Licensed Behavioral Practitioner" or a statement such as "licensed by the Oklahoma State Department of Health."

(e) **License.** Each LBP shall display the original, current license in a prominent place in the primary location of practice.

(f) **Public statements.** When an LBP provides advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

- (1) The statements are based on appropriate professional literature and practice;
- (2) The statements are otherwise consistent with the LBP Rules of Professional Conduct; and
- (3) There is no implication that a professional behavioral health services relationship has been established.

(g) **Rebates.** An LBP shall not give or accept a commission, rebate, or other form of remuneration for referral of clients for professional services.

(h) **Accepting fees from agency clients.** An LBP shall refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the agency or institution that employs the LBP. If the policies of a particular agency provide for agency clients to receive behavioral health services from members of its staff in private practice, the agency shall inform clients of other options open to them should they seek private behavioral health services.

(i) **Candidates for LBP licensure.** Candidates for licensure as a Licensed Behavioral Practitioner shall not refer to themselves as a Licensed Behavioral Practitioner or LBP.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01; Amended at 24 Ok Reg 1961, eff 6-25-2007]

310:403-7-8. Failure to comply

An LBP who does not comply with subchapter 7 - Rules of Professional Conduct shall be guilty of unprofessional conduct and subject to disciplinary action under subchapter 31.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]