

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

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310:400-5-1. Responsibility to clients

- (a) LMFTs are dedicated to advancing the welfare of families and individuals, including respecting the rights of those persons seeking their assistance, and making reasonable efforts to ensure that their services are used appropriately.
- (b) LMFTs shall not discriminate against or refuse professional service to anyone on the basis of race, gender, religion, or national origin.
- (c) LMFTs are cognizant of their potentially influential position with respect to clients, and they shall not exploit the trust and dependency of such persons. LMFTs therefore shall avoid extra therapeutic relationships with clients that could impair their professional judgment or increase the risk of exploitation. When extra-therapeutic relationships cannot be avoided, LMFTs shall take appropriate professional precautions to insure that judgment is not impaired and that no exploitation occurs. Examples of such extra therapeutic relationships include, but are not limited to, business or close personal relationships with clients. Sexual intimacy with clients is prohibited. Sexual intimacy with former clients for two years following the termination of therapy is prohibited.
- (d) LMFTs shall not use their professional relationship with clients to further their own interests.
- (e) LMFTs respect the right of clients to make decisions and help them to understand the consequences of those decisions. LMFTs shall clearly advise a client that a decision on marital status is the responsibility of the client.
- (f) LMFTs shall continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.
- (g) LMFTs shall assist persons in obtaining other therapeutic services if a marital and family therapist is unable or unwilling, for appropriate reasons, to see a person who has requested professional help.
- (h) LMFTs shall not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment by other appropriate professionals as necessary and indicated.
- (i) When an LMFT becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LMFTs duty of responsibility to the client, including a suspension of the LMFTs license or any other situation or condition described in subchapter 5 of these rules, the LMFT 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 consistent with the provisions of paragraphs (g) and (h) herein.
- (j) LMFTs shall obtain informed consent of clients before taping, recording, or permitting third party observation of their activities.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01; Amended at 23 Ok Reg 2367, eff 6-25-2006]

310:400-5-2. Confidentiality

- (a) LMFTs have unique confidentiality problems because the "client" in a therapeutic relationship may be more than one person. The overriding principle is that LMFTs respect the confidences of their client(s).
- (b) LMFTs shall not disclose client records and confidences to anyone, except:
 - (1) as mandated by law;
 - (2) to prevent a clear and immediate danger to a person or persons;
 - (3) where the LMFT is a defendant in a civil, criminal, or disciplinary action rising from the therapy (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.
- (c) In circumstances where more than one person in a family is receiving therapy, each such family member who is legally competent to execute a waiver must agree to the waiver required by paragraph (b)(4) of this section. Absent such a waiver from each family member legally competent to execute a waiver, an LMFT shall not disclose information received from any family member.
- (d) LMFTs shall use client and/or clinical materials in teaching, writing, and public presentations only if a written waiver has been received in accordance with subsection (c) of this section, or when appropriate steps have been taken to protect client identity.
- (e) LMFTs shall store or dispose of client records in ways that maintain confidentiality.
- (f) LMFTs shall maintain verifiable records necessary for rendering professional services to their clients for at least seven (7) years beyond termination of services. LMFTs 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.
- (g) LMFTs 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.
- (h) LMFTs shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any therapeutic record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01; Amended at 24 Ok Reg 1957, eff 6-25-2007]

310:400-5-3. Professional competence and integrity

- (a) LMFTs are dedicated to maintaining high standards of professional competence and integrity.
- (b) LMFTs are presumed to have violated high standards of integrity or competence if they:
- (1) are convicted of a felony;
 - (2) are convicted of a misdemeanor (related to their qualifications or functions);
 - (3) engage in conduct which could lead to conviction of felonies, or misdemeanors related to their qualifications or functions;
 - (4) have their licenses or certificates suspended or revoked; or
 - (5) are no longer competent to practice marital and family therapy because they are impaired due to physical or mental causes or the abuse of alcohol or other substances.
- (c) LMFTs shall seek appropriate professional assistance for their own personal problems or conflicts that are likely to impair their work performance and their clinical judgment.
- (d) LMFTs, as teachers and supervisors, are dedicated to maintaining high standards of scholarship and presenting information that is accurate.
- (e) LMFTs shall remain abreast of new developments in family therapy knowledge and practice through both educational activities and clinical experiences.
- (f) LMFTs shall not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in ethical proceedings.
- (g) LMFTs shall not attempt to diagnose, treat, or advise on problems outside the recognized boundaries of their competence.
- (h) LMFTs shall prevent the distortion or misuse of their clinical and research findings.
- (i) LMFTs are aware that, because of their ability to influence and alter the lives of others, they must exercise special care when making public their professional recommendations and opinions through testimony or other public statements.
- (j) LMFTs shall protect the welfare of the client by storing and/or destroying, when appropriate, client files.
- (k) LMFTs shall not, under normal circumstances, offer professional services to clients concurrently receiving services from another professional except with the knowledge of the professional.
- (l) LMFTs shall display their original, current license certificate in a prominent place in the primary location of their practice.
- (m) LMFTs shall keep the Department updated regarding changes in mailing address, phone number and place of employment. Failure to do so may place the license in jeopardy due to missed renewal notices and other important communications.
- (n) LMFT 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) LMFT 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, upon request, that they have complied with all applicable provisions of the Rules and Regulations described in Sections 310:400-5-1(i), 310:400-5-2(d) and 310:400-5-3(e),(g),(h),(i), and (n) of this Chapter.
 - (2) LMFT 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) LMFT 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) LMFT 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) LMFT 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) LMFT candidates and licensees who provide therapy services for a client may only provide fact witness testimony in forensic matters involving that client, unless otherwise required by law or court order. LMFT candidates and licensees who provide mediation, parent coordinating assistance or any other neutral participation, may not undertake to provide therapy concurrently or subsequently to any person(s) involved or directly affected by the LMFT candidate's or licensee's role as a neutral participant. Fact witness testimony means evidentiary statements that are limited to direct observations of the LMFT 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.
- (o) An LMFT, LMFT candidate, or applicant for LMFT licensure, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:400-17-3, 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 LMFT, LMFT 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 LMFT, LMFT candidate or applicant may await the decision concerning the issuance or denial of a protective order before making any response.
- (p) No person may engage in the private or independent practice of marital and family therapy work or open a facility with the intent of providing private or independent therapy practice unless that person:
- (1) is licensed under this Act as a Licensed Marital and Family Therapist; and,
 - (2) has met all requirements of Section 310:400-11-4 of the LMFT Regulations; and
 - (3) has continued to meet all continuing education requirements set forth in Subchapter 15 of this Chapter.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01; Amended at 20 Ok Reg 518, eff 1-6-2003 (emergency); Amended at 20 Ok Reg 2362, eff 7-11-2003; Amended at 21 Ok Reg 2745, eff 7-12-2004; Amended

at 23 Ok Reg 2367, eff 6-25-2006; Amended at 25 Ok Reg 2412, eff 7-11-2008; Amended at 26 OK Reg 2015, eff 6-25-09]

310:400-5-4. Responsibility to students, employees, and supervisees

- (a) LMFTs shall not exploit the trust and dependency of students, employees and supervisees.
- (b) LMFTs are cognizant of their potentially influential position with respect to students, employees, and supervisees, and shall not exploit the trust and dependency of such persons. LMFTs, therefore, shall avoid extra therapeutic relationships that impair their professional judgment or increase the risk of exploitation. Examples of such extra therapeutic relationships include, but are not limited to, provision of therapy to students, employees, or supervisees, and business or close personal relationships with students, employees, or supervisees. Sexual intimacy with students or supervisees is prohibited.
- (c) LMFTs shall not permit students, employees, or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.
- (d) LMFTs shall not disclose supervisee confidences to anyone, except:
 - (1) as mandated by law;
 - (2) to prevent a clear and immediate danger to a person or persons;
 - (3) where the marital and family therapist 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.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01]

310:400-5-5. Responsibility to research participants

- (a) LMFTs shall respect the dignity and protect the welfare of persons who participate in research and are cognizant of federal and state laws and regulations and professional standards governing the conduct of research with human participants.
- (b) In planning a study, the LMFT has the responsibility to make a careful examination of its ethical acceptability. To the extent that services to research participants may be compromised by participation in research, the LMFT incurs a correspondingly serious obligation to seek the ethical advice of others not directly involved in the investigation and to observe safeguards to protect the rights of research participants. Examples of compromising conditions include, but are not limited to, random assignment to control groups, waiting lists, and inflexible treatment protocols.
- (c) In requesting involvement in research, LMFTs are obligated to fully inform potential participants of all aspects of the research that might reasonably be expected to influence willingness to participate and to explain all other aspects of the research about which participants inquire. LMFTs are especially sensitive to the possibility of diminished consent when participants are also receiving clinical services or when participants are children or have impairments which limit understanding and/or communication.
- (d) The LMFT respects the individual's freedom to decline to participate in or to withdraw from the research at any time. This obligation requires special thought and consideration when the LMFT or other members of the research team are in positions of authority or influence over the participant.
- (e) Information obtained about a research participant during the course of an investigation is confidential unless otherwise agreed upon in advance. When the possibility exists that others, including family member, may obtain access to such information, this possibility, together with the plan for protecting confidentiality, is explained as part of the procedure for obtaining informed consent.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01]

310:400-5-6. Responsibility to colleagues

- (a) Marital and family therapists shall respect the rights and responsibilities of professional colleagues.
- (b) LMFTs shall assign publication credit to those who have contributed to a publication in proportion to their contributions and in accordance with customary professional publication practices.
- (c) LMFTs who author books or other materials that are published or distributed shall cite appropriately persons to whom credit for original ideas is due.
- (d) LMFTs who author books or other materials published or distributed by an organization shall take reasonable precautions to ensure that the organization promotes and advertises the materials accurately and factually.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok

Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01]

310:400-5-7. Financial arrangements

- (a) LMFTs shall clearly explain to clients, prior to entering the therapy relationship, all financial arrangements related to professional services including the consequences for non-payment of fees.
- (b) LMFTs shall not offer or accept payment for referrals.
- (c) LMFTs shall not charge excessive fees for services.
- (d) LMFTs shall represent facts truthfully to clients and third party payor regarding services rendered.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01]

310:400-5-8. Advertising

- a) LMFTs shall accurately represent their competence, education, training, and experience relevant to their practice of marriage and family therapy.
- (b) LMFTs shall not use a name which could mislead the public concerning the identity, responsibility, source, and status of those practicing under that name and shall not hold themselves out as being partners or associates of a firm if they are not.
- (c) LMFTs shall not use any professional identification (such as a professional card, office sign, letterhead, or telephone or association directory listing) if it includes a statement or claim that is false, fraudulent, misleading or deceptive. A statement is false, fraudulent, misleading, or deceptive if it:
 - (1) contains a material misrepresentation of fact;
 - (2) fails to state any material fact necessary to make the statement, in light of all circumstances, not misleading;
 - (3) is intended to or is likely to create an unjustified expectation.
- (d) LMFTs shall correct false, misleading, or inaccurate information and representations made by others concerning the marriage and family therapist's qualifications, services or products.
- (e) LMFTs shall make certain that the qualifications of persons in their employ are represented in a manner that is not false, misleading or deceptive.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01]

310:400-5-8.1. Candidate for LMFT licensure

Candidates for licensure as a Licensed Marital and Family Therapist shall not refer to themselves as a Licensed Marital and Family Therapist or LMFT.

[Source: Added at 24 Ok Reg 1957, eff 6-25-2007]

310:400-5-9. Failure to comply

An LMFT who does not comply with the Rules of Professional Conduct in this Subchapter shall be guilty of unprofessional conduct.

[Source: Added at 8 Ok Reg 2983, eff 6-12-91 (emergency); Added at 9 Ok Reg 1461, eff 5-1-92; Amended at 17 Ok Reg 3436, eff 8-29-00 (emergency); Amended at 18 Ok Reg 1688, eff 5-25-01]