

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

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310:405-3-1. Responsibility

It shall be the responsibility of Licensed Professional Counselors (LPCs), in their commitment to the understanding of human behavior, to value objectivity and integrity, and in providing services, to strive to maintain the highest standards of their profession. LPCs shall accept responsibility for the consequences of their work and make every effort to ensure that their services are used appropriately. LPCs shall be alert to personal, social, organizational, financial, and political situations or pressures that might lead to the misuse of their influence. LPCs shall not participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation. LPCs shall not exploit their relationships with clients for personal advantage, profit, satisfaction, or interest.

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99]

310:405-3-2. Competence

(a) **Counseling.** LPCs 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.** LPCs shall know the limits of their competence and shall therefore perform only those testing and assessment services for which they have been trained. LPCs shall be familiar with related standardization and proper application and security of any technique utilized. LPCs 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. LPCs shall ensure the proper use of assessment techniques by persons under their supervision.

(c) **Specialty.** LPCs shall not represent themselves as specialists in any aspect of counseling, unless so designated by the Board.

(d) **Research.** LPCs shall plan, design, conduct, and report research only in a manner consistent with current American Counseling Association Code of Ethics, pertinent ethical principles, federal and state laws, rules, and scientific standards governing research with human subjects.

(e) **Impairment.** LPCs shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LPCs 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 LPC 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 LPC shall not undertake to provide counseling and will terminate the counseling relationship in accordance with these rules.

(f) **Knowledge of impairment.** If a LPC becomes aware that a LPC or LPC candidate is violating an obligation described in Section 310:405-3-2(e), the LPC must, within a reasonable time, report the situation to the Department in accordance with Section 310:405-31-2.

(g) **Knowledge of improper sexual contact.** If a LPC or LPC candidate becomes aware that another LPC or LPC Candidate is violating Section 310:405-3-3.1, the LPC or LPC Candidate must, within a reasonable time, report the improper sexual contact to the Department in accordance with Section 310:405-31-2.

(h) **Evaluations.** LPC 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) LPC 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 310:405-3-1, 310:405-3-2(a)(f), and 310:405-3-5(f)(1)(2)(3) of this Chapter.

(2) LPC 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) LPC 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) LPC 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) LPC 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) LPC 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. LPC 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 LPC 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 LPC 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: Amended at 13 Ok Reg 2495, eff 6-27-96; Amended at 17 Ok Reg 2935, eff 7-13-00; Amended at 20 Ok Reg 521, eff 1-6-03 (emergency); Amended at 20 Ok Reg 2365, eff 7-11-2003; Amended at 23 Ok Reg 2380, eff 6-25-2006; Amended at 24 Ok Reg 1965, eff 6-25-2007; Amended at 26 Ok Reg 2027, eff 6-25-09]

310:405-3-3. Client welfare

(a) **Discrimination.** LPCs shall not, in the rendering of their professional services, participate in, condone, or promote discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. LPCs do not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

(b) **Records.**

(1) **Requirement of records.** LPCs shall maintain verifiable, accurate and truthful records necessary for rendering professional services to their clients for at least five (5) years beyond termination of services. LPCs 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.** LPCs 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.** LPCs shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any counseling record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

(4) **Client access.** LPCs shall provide the client with 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) **Dual relationships.** LPCs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LPC reasonably suspects that he or she has inadvertently entered into a dual relationship the LPC 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 LPC cannot readily refer the client to another counselor or other professional, the LPC shall complete one or more of the following measures as necessary to prevent the exploitation of the client and/or the impairment of the LPC'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 the other professional(s) to understand the potential impairment to the LPC's professional judgment and the risk of harm to the client of continuing the dual relationship.

(d) **Providing counseling to persons of prior association.** LPCs shall not undertake to provide counseling to any person with whom the LPC has had any prior sexual contact or close personal relationship within the previous five (5) years.

(e) **Interaction with former clients.** LPCs 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. LPCs 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. LPCs shall not exploit or obtain an advantage over a former client by the use of information or trust gained during the counseling relationship.

(f) **Invasion of privacy.** LPCs shall not make inquiry into persons or matters that are not reasonably calculated to assist or benefit the counseling process.

(g) **Private or Independent Practice.** No person may engage in the private or independent practice of professional counseling 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 Professional Counselor; and,

(2) has met all requirements of Section 310:405-11-5 of the LPC Regulations; and

(3) has continued to meet all continuing education requirements set forth in Subchapter 17 of this Chapter.

(h) **Referral.**

(1) If LPCs determine that they are unable to be of professional assistance to a client, the LPC shall not enter a counseling relationship. LPCs shall refer clients to appropriate sources when indicated. If the client declines the suggested referral, the LPC shall terminate the relationship.

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

(3) When an LPC becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LPC's duty of responsibility to the current client, including a suspension of the LPC's license or any other situation or condition described in subchapter 3 of these rules, the LPC 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: Amended at 13 Ok Reg 2495, eff 6-27-96; Amended at 17 Ok Reg 2935, eff 7-13-00; Amended at 23 Ok Reg 2380, eff 6-25-2006; Amended at 24 Ok Reg 1965, eff 6-25-2007; Amended at 25 Ok Reg 2421, eff 7-11-2008; Amended at 26 Ok Reg 2027, eff 6-25-09]

310:405-3-3.1. Fees and bartering

(a) **Advance understanding.** LPCs shall clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the consequences for non-payment of fees.

(b) **Bartering.** LPCs may participate in bartering for tangible goods 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.** LPCs shall not barter for services rendered by the client. Only tangible goods, at fair market value, may be accepted by the counselor in lieu of money for counseling services.

[Source: Added at 13 Ok Reg 2495, eff 6-27-96; Amended at 24 Ok Reg 1965, eff 6-25-2007]

310:405-3-4. Professional standards

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

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

(c) **Sexual contact.**

(1) **Current clients.** LPCs shall not have any type of sexual contact with clients and shall not counsel persons with whom they have had a sexual relationship.

(2) **Supervisees.** LPCs shall not engage in sexual contact with supervisees and shall not supervise persons with whom they have had a sexual relationship within the previous five (5) years. LPCs shall not engage in sexual contact with supervisees they have supervised within the previous five (5) years.

(d) **Updating.** LPCs 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.

(e) **Candor to the Department.** An LPC, LPC candidate, or applicant for LPC licensure, in connection with a license application or an investigation conducted by the Department pursuant to OAC 310:405-31-3, 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 LPC, LPC 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 LPC, LPC candidate or applicant may await the decision concerning the issuance or denial of a protective order before making any response.

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99; Amended at 17 Ok Reg 2935, eff 7-13-00; Amended at 21 Ok Reg 2750, eff 7-12-2004; Amended at 24 Ok Reg 1965, eff 6-25-2007]

310:405-3-4.1. Clinical responsibility to supervisees

(a) LPCs shall not exploit the trust and dependency of supervisees.

(b) LPCs are cognizant of their potentially influential position with respect to supervisees, and shall not exploit the trust and dependency of such persons. LPCs, 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) LPCs 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) LPCs 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.

[Source: Added at 23 Ok Reg 2380, eff 6-25-2006]

310:405-3-5. Relations with the public and other professions

(a) **Misrepresentation.** LPCs shall not misrepresent nor allow the misrepresentation by others of the efficacy of the LPC's professional services.

(b) **Credentials claimed.** LPCs 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 counseling 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 LPCs additional knowledge or expertise in counseling.

(c) **The use of doctoral degrees and the title "Doctor".** An LPC may use the doctoral degree and the title "Doctor" in advertising, practice and status as a counselor, if the doctoral degree is in counseling or a closely related mental health field, and if the degree was granted by a regionally accredited college or university recognized by the United States Department of Education.

(1) Non-counseling doctorates. An LPC who holds a doctoral degree in a non-counseling related field shall not use the doctoral degree or the term "Dr." in advertising, practice or status as a counselor.

(2) Non-regionally accredited doctorates. An LPC who holds a doctoral degree from a college or university not regionally accredited and recognized by the United States Department of Education shall not use the doctoral degree or the title "doctor" in advertising, practice or status as a counselor, unless the following conditions are met:

- (A) the degree was conferred or matriculation was begun before May 5, 1995; and
 - (B) the conferring institution was certified or accredited by the state wherein the institution is located.
 - (d) **Advertisement.** When an LPC announces services or advertises, the LPC shall represent services to the public by identifying credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent. An LPC may only advertise the highest degree earned in counseling 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 counseling services including telephone directory listings by an LPC shall clearly state the counselor's licensure status by the use of a title such as "LPC", or "Licensed Professional Counselor" or a statement such as "licensed by the Oklahoma State Department of Health."
 - (e) **License.** Each LPC shall display the original, current license in a prominent place in the primary location of practice.
 - (f) **Public statements.** When an LPC 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 LPC Rules of Professional Conduct; and
 - (3) There is no implication that a professional counseling relationship has been established.
 - (g) **Rebates.** An LPC 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 LPC shall refuse a fee or other remuneration for rendering services to persons who are entitled to such services through the employer of the LPC.
 - (i) **Candidates for LPC licensure.** Candidates for licensure as a Licensed Professional Counselor shall not refer to themselves as Licensed Professional Counselor or LPC.
- [Source: Amended at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99; Amended at 17 Ok Reg 2938, eff 7-13-00; Amended at 24 Ok Reg 1965, eff 6-25-2007]

310:405-3-6. Failure to comply

An LPC who does not comply with subchapter 3 - Rules of Professional Conduct shall be subject to disciplinary action under subchapter 31.

[Source: Amended at 13 Ok Reg 2495, eff 6-27-96; Amended at 26 Ok Reg 2027, eff 6-25-09]