

The Licensed Behavioral Practitioner Advisory Board proposed the following changes to the LBP Rules. The rules have been approved by the Oklahoma State Board of Health, signed by the Governor, and became effective June 25, 2009. The language underlined is new and the language stricken through is now deleted.

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 403. LICENSED BEHAVIORAL PRACTITIONERS
SUBCHAPTER 1. GENERAL PROVISIONS

310:403-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Act" means Title 59, Sections 1930 et seq. of the Oklahoma Statutes.

"Dual relationship" means a familial, social, financial, business, professional, close personal, sexual or other non-therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LBP's professional obligation to a client.

"Face-to-face behavioral health services" means the behavioral practitioner and the client shall be in the physical presence of the other in a behavioral health setting.

"Face-to-face supervision" means the supervisor and the supervisee shall be in the physical presence of the other.

"Full time practice" means working at least 20 hours per week.

"Group supervision" means two (2) to six (6) LBP Candidates.

"Technology-assisted distance learning" refers to the delivery of graduate coursework or continuing education, which focuses on synchronous or asynchronous instructional delivery methods. Technology-assisted distance learning is designed to deliver education to students who are not in the direct physical presence of the educator.

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

310:403-7-2. Competence

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

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

(d) **Research.**

(1) LBPs 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 (NAMP), federal and state laws, rules, and scientific standards governing research with human subjects.

(2) The research principles of the NAMP "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.** LBPs shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). LBPs 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.

~~(f)~~ **(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.

310:403-7-3. Client welfare

(a) **Discrimination.** LBPs 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.** LBPs shall maintain verifiable records necessary for rendering professional services to their clients for at least five (5) years beyond termination of services. LBPs 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.** LBPs 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.** LBPs 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.** LBPs 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.** LBPs 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.

~~(d)~~ (e) Referral.

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

(2) LBPs 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 LBPs duty of responsibility to the current client, including a suspension of the LBPs 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.

SUBCHAPTER 15. SUPERVISED EXPERIENCE REQUIREMENT

310:403-15-7. Documentation of supervised experience

(a) A Supervision Agreement Form between the supervisor and supervisee, Statement of Professional Disclosure Form, and the On-Site Supervisor Verification Form shall be received and approved by the Department prior to beginning the accrual of supervised hours.

(b) The supervisor and LBP Candidate shall sign and submit an "Evaluation of Supervised Experience," including documentation of observations, date of consultation between approved supervisor and on-site supervisor, and the Record of Supervised Experience on a semi-annual basis. Incomplete evaluations will not be accepted by the Department until all requirements for the semi-annual evaluation period have been completed.

SUBCHAPTER 21. CONTINUING EDUCATION REQUIREMENTS

Section

310:403-21-1	Purpose
<u>310:403-21-1.1</u>	<u>Documentation of attendance</u>
310:403-21-2	Submission of continuing education roster
310:403-21-3	Acceptable continuing education
310:403-21-3.1	Continuing education accrual from teaching
310:403-21-4	Audit of continuing education submissions
310:403-21-5	Penalty for failure to submit continuing education
310:403-21-6	Submission of fraudulent continuing education
310:403-21-7	Responsibility
310:403-21-8	Failure to complete continuing education

310:403-21-1.1. Documentation of attendance

LBPs shall retain verification of attendance documents for all continuing education hours claimed for a period of two (2) years.

Acceptable continuing education verification of attendance documents include:

- (1) An official continuing education validation form furnished by the presenter, or,
- (2) A letter on the sponsoring presenter's letterhead giving the name of the program, location, dates, subjects taught, total number of hours attended, participant's name and presenter's name and credentials, or,
- (3) An official graduate transcript showing course or audit credit, or,
- (4) A letter for teaching activities on the sponsor's letterhead giving the name of the program, location, dates, subject taught, and total number of hours taught.

310:403-21-3. Acceptable continuing education

- (a) Continuing education shall take place in the context of a college course, in-service training, institute, seminar, workshop, conference or a Department approved home study course technology-assisted distance learning program approved by the Department.
- (b) Continuing education shall be accrued during the twelve (12) months preceding the renewal deadline or, in the case of the first licensing period, twenty-four (24) months preceding renewal.
- (c) Of the ten (10) hours of C.E. required annually, two (2) hours must be in counseling or mental health ethics.

SUBCHAPTER 25. LICENSE AND SPECIALTY RENEWAL

310:403-25-8. Display of verification card

- (A) LBPs shall display a current license verification card on the original or replaced license.
- (B) A current license verification card shall be readily available on the LBPs person at any time behavioral health services are being provided.

SUBCHAPTER 27. LICENSURE BY ENDORSEMENT

310:403-27-1. Requirements for licensure by endorsement

~~An applicant for licensure by endorsement must meet the following requirements:~~

- (a) The Department shall issue a license by full endorsement to an applicant who is licensed as a behavioral practitioner in another jurisdiction and who meets the following:
 - (1) Possess a behavioral practitioner's license which is active and in good standing, with no history of suspension or revocation against license;
 - (2) Fulfill the requirements of Section 1935 (A), ~~and~~ (B), and (C) of the Act;
 - (3) Possess at least a masters degree from a program in psychology from a regionally accredited college or university;
 - (4) Pass the LBP State Standards Test; and
 - (5) Pass the Practice Examination of Psychological Knowledge unless+

~~(A)The~~the applicant has passed a written examination that, in the judgment of the Department, is substantially equivalent to the examination established by the Board; ~~or~~

~~(B)The applicant has practiced as a licensed behavioral practitioner for seven (7) of the last ten (10) years immediately preceding application for license in Oklahoma.~~

(b) The Department shall issue a two (2) year, non-renewable, license by endorsement to applicants seeking full endorsement who do not fulfill the requirements set forth in subsection 310:403-27-1(a) of this Chapter, under the following conditions:

(1) The applicant must show proof of continuous practice in counseling for five (5) years prior to application in Oklahoma;

(2) The applicant must show proof of behavioral practitioner license in the other jurisdiction is current and in good standing, with no history of suspension or revocation against the license;

(3) The applicant takes and passes the examinations as provided in subsection 310:403-19-1 of this Chapter; and,

(4) The applicant completes all deficient course work to meet the academic requirements as provided in subchapter 9 of this Chapter.

(c)The license by endorsement will expire after two years from the date of issue. Failure to fulfill the requirements as provided in this subsection, within the two (2) year licensure period, will require the applicant to fulfill licensure requirements set forth in Section 1935 (C)(2)(3) of the Act.