

Counseling Related Law in Florida

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As a counselor it is critical to be able to differentiate among legal, ethical and clinical concerns and with that having a rudimentary understanding of legal issues in counseling and laws that affect the practice of counseling is a necessity. One source of frustration for prospective and beginning counselors is that there are so absolute, right answers to ethical, legal or best practice questions (Remley & Herlihy, 2016). The American Counseling Association Code of Ethics states that counselors are aware of both the ethical standards they are held to as well as the laws, regulations, and governing legal authority of which they are members in order to engage in best practice as professionals. This paper will review state laws related to Professional Counseling in Florida.

Licensure Requirements

According to the Florida Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling and the Florida State Statues (FSA) §491.005 may apply for licensure as a clinical mental health counselor through examination. Applicants must have earned a master's degree from a mental health counseling program accredited by the Council for the Accreditation of Counseling and related Educational Programs that consists of at least 60 semester hours of clinical and didactic instruction including a course in human sexuality and a course in substance abuse. "Thirty-three semester hours of graduate coursework must include a minimum of 3 semester areas in each of the following content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology, human sexuality, group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; counseling in community settings and substance abuse." (FSA 2017 §491.005) Additionally a

minimum of 3 semester hours of graduate level coursework in legal, ethical, and professional standards issues in the practice of counseling is required. In conjunction at least 1,000 hours of university-sponsored supervised clinical practicum, internship, or field experience as required in the accrediting standards of the Council for Accreditation of Counseling and Related Educational programs for mental health counseling programs must be met. Two years of post-master's supervised experience under the supervision of licensed mental health counselor or the equivalent who is qualified as determined by the board. The supervision experience must have consisted of at least 1,500 hours providing psychotherapy face-to-face with clients, and shall be accrued in no less than 100 weeks. At least 100 hours of supervision per 1,500 hours of psychotherapy with clients provided by the intern; at minimum one hour of supervision ever two weeks; at least one hour of supervision per fifteen hours of psychotherapy. Individual supervision is defined as one supervisor supervising no more than two interns. The applicant must pass the national clinical mental health counseling examination (NCMHCE) developed by the National Board for Certified Counselors (NBCC). After taking the NCMHCE applicants are required to complete an eight-hour laws and rules course approved by the board. Within six months of licensure counselors must complete a three-hour course on human immunodeficiency virus and acquired immune deficiency syndrome; and a two-hour domestic violence course.

Definitions and Scope of Practice

F.S.A. §491.003(9) defines “the practice of mental health counseling” as the use of “scientific and applied behavior science theories, methods, and techniques for the purpose of describing, preventing, and treating undesired behavior and enhancing mental

health and human development and is based on the in person perspectives derived from research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation”. Mental health counselors evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders, behavioral disorders, interpersonal relationships, sexual dysfunctions, and more. The practice of counseling also includes behavior modification, consultation, advocacy, psychoeducation, and crisis intervention.

Confidentiality and Privileged Communication

According to Florida State Statute §491.0147 “any communication between a licensed (counselor) and his or her patient or client shall be confidential”, three exceptions to confidentiality exist within this statute. The first exception to confidentiality is when the counselor is a party defendant to a civil, criminal or disciplinary action arising from the completed filed by the patient. The second exception is when the client agrees to the waiver, in writing or when more than one person in a family is receiving therapy each individual agrees to the waiver in writing. The last exception is when in the clinical judgment of the counselor there is a clear and immediate threat of physical harm to the client, to other individuals, or to society. Florida State Statute §39.201(1) mandates that “any person who knows or has reasonable cause to suspect, that a child is abused abandoned, or neglected by a parent, caregiver, or other responsible person, or that a child is in need of supervision and care shall report such knowledge or suspicion to the department of children and families” and F.S.A §415.1034 extends mandatory reporting of abuse, neglect, or exploitation of vulnerable adults. There

is no liability on the part of, and no cause of action of any nature will arise against, a licensed counselor for the disclosure of otherwise confidential communications in these aforementioned cases.

Record Keeping

F.S.A. §491.0148 states that psychotherapist must maintain records, Florida Administrative Code §64B4-9.002 mandates psychotherapeutic records must contain basic information about the client including name, address and telephone number, dates of therapy sessions, treatment plan and results, diagnosis if applicable, and financial transactions between therapist and client. F.A.C. §64B4-9.002 further states that records should also contain notes or documentation of the clients consent to all aspects of treatment, copies of any client authorizations for release of information, any legal forms pertaining to the client, and contact with other professionals the therapist has regarding the client. F.A.C. §64B4-9.001 requires that a mental health counselor (including any registered intern) shall maintain responsibility for all records relating to clients and that the records must remain confidential except as dictated by the law or allowed by a written or signed authorization of the client. F.A.C. §64B4-9.001 requires that records shall be maintained for seven years after the date of last contact and in the event of a counselor terminating practice clients shall be notified of such termination and records shall be retained for two years after termination; in the event of a practitioner's death records shall be retained for 23 months and then will be disposed or destroyed.

Closing Contemplations

I am thankful that the Florida Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling, Florida State Statutes, and the Florida

Administrative Code very thoroughly defines many of the roles and obligations that professional counselors perform in the state of Florida. Although there are limitations to what is specifically stated in the law I believe that in conjunction with the with the ACA Code of Ethics counselors are well equipped to handle various ethical and legal situations that will certainly arise practicing in the field.

References

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