

ARKANSAS REGISTER

Transmittal Sheet

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For Office

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Department Board of Examiners in Counseling

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06/22/2020

Contact Person

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Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

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06/22/2020

Date

ARKANSAS BOARD OF EXAMINERS IN
COUNSELING AND MARRIAGE & FAMILY THERAPY
RULES

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I. GENERAL INFORMATION

Section 1.1 ENABLING LEGISLATION

The Rules are adopted pursuant to Arkansas Code Annotated § 17-27-101 *et seq.*

Preface

The enabling legislation of the Arkansas Board of Examiners in Counseling is codified at Arkansas Code Annotated §17-27-101 and it provides for the licensure and regulation of Counselors and Marriage and Family Therapists; and the individuals who are allowed to use the titles "licensed professional counselor", "licensed associate counselor", "licensed marriage and family therapist", and "licensed associate marriage and family therapist". The Act is both title and practice.

The Board of Examiners in Counseling shall, in all deliberations and in all adopted Rules, diligently pursue goals most consistent with the public interest and protection of the public welfare and shall, at all times, apply the provisions of Arkansas Code Annotated § 17-27-101, *et seq.* and the Rules in a fair and impartial manner.

Section 1.2 DESCRIPTION OF ORGANIZATION

The Arkansas Board of Examiners in Counseling is composed of nine (9) members appointed by the Governor to staggered terms of three years. The composition of the Board shall include six (6) licensed or licensable counselors, three (3) of whom are practicing counselors and three (3) of whom are counselor educators, one (1) licensed marriage and family therapist; one (1) member from the general public who is not licensed or licensable and not actively engaged in or retired from the profession, and one (1) member who shall represent the elderly.

Board members shall be appointed for three (3) year terms.

Section 1.3 INFORMATION FOR PUBLIC GUIDANCE

Records of the Board shall be kept, maintained, and made available for inspection in accordance with the Arkansas Freedom of Information Act (Arkansas Code Annotated § 25-19-101 *et seq.*).

Records of the Board will be maintained in accordance with the laws governing retention of documents of State agencies.

The Board may periodically release names of new licensees and the names of those licensees whose licenses have been suspended or revoked, and those who are appealing a suspension or a revocation, to the American Counseling Association (ACA), to the American Association of Marriage and Family Therapy (AAMFT), and the American Mental Health Counselors Association. This information may be

periodically placed on the Board website.

Final decisions arrived at through administrative hearings will be available to requesters [including third party payers]. All final decisions are reported to the National Practitioners Data Base. These decisions will be available through the Board's web site or by written request from the Board office.

Section 1.4 PURPOSES OF ORGANIZATION

The Board is responsible for the regulation of the titles and the practices of Counseling and Marriage and Family Therapy in the State of Arkansas. This includes examining the qualifications of the applicants and approving each for licensing, as well as revoking, suspending, and renewing licenses.

In order to protect the citizens of Arkansas, obtaining an Arkansas license as a Licensed Professional Counselor (LPC), Licensed Associate Counselor (LAC), Licensed Marriage and Family Therapist (LMFT), or Licensed Associate Marriage and Family Therapist (LAMFT) is a prerequisite to offering, rendering or delivering counseling services in Arkansas to individuals or groups located in Arkansas. The license requirement applies to traditional face to face counseling as well as to Telemedicine. If a licensee offers services to clients in another state, the licensee is subject to laws of that state.

Section 1.5 ORGANIZATION OF THE BOARD

The Board will elect officers within 30 days before January 2 of each year. The Board shall elect a chair and a secretary and other such officers, as it deems necessary, from its members to serve for terms of one year. Five (5) members shall at all times constitute a quorum. Additional meetings may be held at the discretion of the chair or upon written request of any three (3) members of the Board.

Section 1.6 MEETINGS

Meetings of the Board shall be open to the public in accordance with the Freedom of Information Act. Dates, times, and places of meetings shall be furnished to anyone requesting the information and made available to the press and on the website.

Under the provisions of the Arkansas Freedom of Information Act the Board may go into executive session for the purpose of giving oral licensure examinations or to develop examination questions.

Section 1.7 FINANCES

The Board shall charge fees for applications, licenses, examinations and other administrative purposes deemed necessary by the Board. In addition to fees collected, the Board is empowered to accept grants from foundations and institutions to carry out its function. The Board may hire such personnel as necessary to carry out its activities.

The Board has adopted the model Anti-Fraud and Code of Ethics Policy provided by the Arkansas Department of Finance and Administration.

Section 1.8 INTENT OF THE ACT

It is intended that the provisions of Arkansas Code Annotated §17-27-101 *et seq.* operate in accordance with other laws.

Section 1.9 DEFINITIONS

- (a) "Board Approved Supervisor Status" means any person holding himself/herself out to the public by any title or description of services incorporating the words Approved Supervisor Status. Any person who meets the applicable requirements set forth in Section 4.3 of these rules are approved to supervise LAC and/or LAMFT.
- (b) "Counseling" means assisting individuals or groups, through the counseling relationship, to develop understanding of personal problems, define goals, and plan action reflecting interests, abilities, aptitudes, and needs. The terms counseling and psychotherapy are synonymous and refer to the application of mental health, psychological, or human development principles, through cognitive, affective, behavioral or systemic intervention strategies that address wellness, personal growth, or career development, as well as pathology. Counseling may also include clinical research into more effective methods for the diagnosis, treatment and prevention of the above named conditions.
- (c) "Licensed Associate Counselor (LAC)" means any person holding himself/herself out to the public by any title or description of services incorporating the words Licensed Associate Counselor, who meets the requirements set forth in Section 3.2 of these rules, and who offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration otherwise implying licensure, training, experience, and/or expertise in counseling, and who holds a current, valid license to practice counseling under the supervision of a Licensed Professional Counselor. Nothing in this definition shall be construed to include those professions excluded by Ark. Code Ann. § 17-27-103.
- (d) "Licensed Associate Marriage and Family Therapist (LAMFT)" means any person who holds himself/herself out to the public by any title or description of services incorporating the words licensed associate marriage and family therapist, who meets the requirements set forth in Section 3.4 of these rules; offers to render marriage and family therapy services to individuals, couples and families, singularly or in groups for monetary remuneration; and holds a current, valid license to practice marriage and family therapy services under the supervision of a licensed Marriage and Family Therapist. Nothing in this definition shall be construed to include those professions

excluded by Ark. Code Ann. § 17-27-103.

- (e) "Licensed Marriage and Family Therapist (LMFT)" means any person who: holds himself/herself out to the public by any title or description of services incorporating the words licensed marriage and family therapist, who meets the requirements set forth in Section 3.5 of the rules; offers to render marriage and family therapy services to individuals, groups, couples, families, organizations, corporations, institutions, government agencies, or the general public for monetary remuneration or otherwise implying that he or she is licensed, trained, experienced, or an expert in marriage and family therapy; and holds a current, valid license to practice marriage and family therapy. Nothing in this definition shall be construed to include those professions excluded by Ark. Code Ann. § 17-27-103.
- (f) "Licensed Professional Counselor (LPC)" shall mean any person holding himself/herself out to the public by any title or description of services incorporating the words Licensed Professional Counselor, who meets the requirements set forth in Section 3.3 of the rules, and who offers to render counseling services to individuals, groups, organizations, corporations, institutions, government agencies, or to the general public for monetary remuneration or who otherwise implies licensure, training, experience, and/or expertise in counseling and who holds a current valid license to practice counseling/psychotherapy. Nothing in this definition shall be construed to include those professions excluded by Ark. Code Ann. § 17-27- 103.
- (g) "Marriage and Family Therapy" means the use of scientific and applied marriage and family theories, methods and procedures for the purpose of describing, evaluating and modifying marital, family and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marriage and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality and psychotherapeutic, marital and family therapy theories, and techniques in the evaluation, assessment and treatment of interpersonal or intrapersonal dysfunction within the context of marriage and family systems. Marriage and family therapy may also include clinical research into more effective methods for the diagnosis, treatment and prevention of the above- named conditions. Nothing in this definition or in this chapter shall be construed as precluding licensed professional counselors or licensed associate counselors from rendering these services.
- (h) "Statement of Intent" means a typed statement from the applicant on file with the Board, describing the scope of practice for use under the requested license, the public with whom the applicant will work, and the counseling/psychotherapy and appraisal approaches the applicant plans to use (including techniques and tools).

II. EXEMPTIONS

Section 2.1 CLERGY

- (a) Clergy appointed and/or endorsed by their local congregation/church, synagogue, denominational institution or agency to practice pastoral counseling as parts of their responsibilities or duties of their ministry assignments are exempt from licensure requirements. The assignment must be authorized and/or endorsed by their local congregation/church, synagogue, denominational institution or agency. International and National licenses/certifications and/or assignments do not supersede state law.
- (b) Any minister, clergy or pastoral counselor who has a private counseling or marriage and family therapy practice (full time or part time) outside of ministry assignment must be licensed by this Board.

Section 2.2 VOLUNTEERS

Individuals who offer volunteer pastoral, marriage and family therapy or counseling services are exempt from licensure requirements as long as their services are authorized and supervised by the local congregation/church, synagogue, denominational institution, agency, or organization for which the service is rendered. Volunteers must abide by the same requirements as the authorizing congregation/church, synagogue, denominational institution, agency or organization.

- (a) Approval is documented by the organization or agency for which the service is rendered. Approval means a description of the assignment and designation of the person/persons responsible for supervising the volunteers (clergy, licensed professionals, etc). Documentation is by letter on the organization or agency letterhead, signed by the Arkansas organization or agency authority approving the service.
- (b) Any fees to recover costs for materials and/or services rendered, whether assigned fees or donations, will be made payable and deposited to the agency, organization, church, or synagogue that has given the approval. Payment of any type, barter or cash, to the volunteer means the volunteer has entered the private sector and must be licensed by the Board.
- (c) An organization or agency includes but is not limited to Arkansas churches, synagogues, military assignments, and The American Red Cross crisis assignments, etc.
- (d) The titles of the volunteers must not be Counselor or Therapist. Acceptable volunteer title examples follow: volunteer, disciple, mentor, lay clergy, shepherd, American Red Cross Disaster Mental Health supervisor or technician.

III. LICENSING QUALIFICATIONS

Section 3.1 Pre-licensure Background Check

- (a) Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
- (b) The individual must obtain the pre-licensure criminal background check petition form from the Board.
- (c) The Board will respond with a decision in writing to a completed petition within a reasonable time.
- (d) The Board's response will state the reasons for the decision.
- (e) All decisions of the Board in response to the petition will be determined by the information provided by the individual.
- (f) Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
- (g) The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

Section 3.2 LICENSED ASSOCIATE COUNSELORS (LAC)

In order to be eligible as a Licensed Associate Counselor, an applicant:

- (a) Must have received a graduate degree that is primarily professional counseling in content from a regionally accredited institution. The graduate semester hours must meet or exceed the national academic and training content standards adopted by the Board or the Council for the Accreditation of Counseling and Related Educational Programs (CACREP);
- (b) Must demonstrate professional competencies by passing written examinations, and/or oral interviews as prescribed by the Board;
- (c) Must arrange supervision with a Board-approved LAC supervisor and have the agreement for the supervision approved by the Board prior to license issue;
- (d) Must have met the criminal background check mandated by Ark. Code Ann. § 17-27-313;
- (e) Must be a citizen of the U.S. or have current documentation of legal alien work status issued by the U.S. Citizenship and Immigration Services.

- (f) The LAC is not intended to be a permanent license.

Section 3.3 LICENSED PROFESSIONAL COUNSELORS (LPC)

In order to be eligible as a Licensed Professional Counselor, an applicant:

- (a) Must meet the requirements of Section 3.2 with the exception of (c); and
- (b) Must provide evidence of three thousand (3000) client contact hours of supervised full-time experience in professional counseling acceptable to the Board.

Section 3.4 LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPISTS (LAMFT)

In order to be eligible as a Licensed Associate Marriage and Family Therapist, an applicant:

- (a) Must have received a graduate degree in marriage and family therapy or related field from a regionally accredited institution. The graduate semester hours must meet or exceed the national academic and training content standards adopted by the Board or the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE);
- (b) Must demonstrate professional competencies by passing written examinations, and/or oral interviews prescribed by the Board;
- (c) Must arrange supervision with a Board-approved LAMFT supervisor and have the agreement for supervision approved by the Board prior to license issue;
- (d) Must have met the Criminal Background Check mandated by Ark. Code Ann. § 17-27-313;
- (e) Must be a citizen of the U.S. or have current documentation of legal alien work status issued by the U.S. Citizenship and Immigration Services.
- (f) The LAMFT license is not intended to be a permanent license.

Section 3.5 LICENSED MARRIAGE AND FAMILY THERAPISTS (LMFT)

In order to be eligible as a Licensed Marriage and Family Therapist, an applicant:

- (a) Must meet the requirements of section 3.4, with the exception of (c); and
- (b) Must provide evidence of three thousand (3000) client contact hours of supervised full-time experience, in marriage and family therapy acceptable to the Board.

Section 3.6 GRADUATE COURSE REQUIREMENTS

- (a) The applicant must have received a graduate degree from a regionally accredited institution of higher education that is primarily professional counseling or therapy in content and document completion of a minimum of 60 graduate semester hours in course work, counseling/therapy in content, that meet the academic and training standards established by the Board. The counseling programs, from which the degree/courses are earned, within the institution, shall meet the standards for the preparation of counselors by the specific national professional associations related to each license.
- (b) The adopted standards for LAC and LPC are the current Council for Accreditation of Counseling and Related Educational Programs (CACREP) standards and must meet Arkansas core curriculum standards.
- (c) The adopted standards for LAMFT and LMFT are the current Commission on Accreditation for Marriage and Family Therapy Education Standards (COAMFTE) standards and must meet Arkansas core curriculum standards.
- (d) Additional documentation from the issuing institution may be required to verify that all course standards are met.
- (e) Core Curriculum for LAC or LPC includes:
 - 1. Professional Identity and Ethics, (3 Graduate Credit Hour Minimum)
 - 2. Social and Cultural Diversity, (3 Graduate Credit Hour Minimum)
 - 3. Human Growth and Development, (3 Graduate Credit Hour Minimum)
 - 4. Career Development, (3 Graduate Credit Hour Minimum)
 - 5. Helping Relations, (3 Graduate Credit Hour Minimum)
 - 6. Group Work, (3 Graduate Credit Hour Minimum)
 - 7. Assessment, (3 Graduate Credit Hour Minimum)
 - 8. Research and Program Evaluation, (3 Graduate Credit Hour Minimum)
 - 9. Practicum and/or Internships, (9 Graduate Credit Hour Minimum in 3 Graduate Courses over a minimum of 6 months)
 - 10. Abnormal Psychology/Psychopathology, including DSM and ICD training (3 Graduate Credit Hour Minimum)
 - 11. Family and Relationship (3 Graduate Credit Hour Minimum)
 - 12. Technology Assisted Counseling, (1 Graduate Credit Hour Minimum)
- (f) Core Curriculum for LAMFT or LMFT includes:
 - 1. Foundations of Relational/Systemic Practice, (6 Graduate Credit Hour Minimum in 2 Graduate Courses)
 - 2. Clinical Treatment with Individuals, Couples and Families, (6 Graduate Credit Hour Minimum in 2 Graduate Courses)
 - 3. Diverse, Multicultural and/or Underserved Communities, (3 Graduate Credit Hour Minimum)
 - 4. Research & Evaluation, (3 Graduate Credit Hour Minimum)

5. Professional Identity, Law, Ethics and Social Responsibility, (3 Graduate Credit Hour Minimum)
 6. Biopsychosocial Health & Development Across the Life Span, (3 Graduate Credit Hour Minimum)
 7. Systemic/Relationship Assessment & Mental Health Diagnosis, (3 Graduate Credit Hour Minimum)
 8. Practicum/Internships, (9 Graduate Credit Hour Minimum in 3 Graduate Courses over a minimum of 9 months)
 9. Technology Assisted Counseling, (1 Graduate Credit Hour Minimum)
- (g) All graduate course hours used in the application for any license issued by the Arkansas Board must have a "B-" grade or above. Grades of "C+" or below will not be accepted for licensure purposes.
- (h) Online education will be treated the same as traditional education if the program is primarily professional counseling or marriage and family therapy in content and is earned from a regionally accredited institution of higher education and are recognized by National Council for State Authorization Reciprocity Agreement (NC-SARA).
- (i) Institutions of higher education that have graduate counselor education and related graduate programs that are not accredited by CACREP/COAMFTE must be regionally accredited and coursework must be approved by the Board. Applicants must submit the following information for Board review:
1. Two (2) graduate catalogs;
 2. A completed Core Curriculum for the 60 hour requirements; and
 3. A copy of each syllabus listed on the Core Curriculum if requested by the Board.

Section 3.7 Waiver Request for Offenses on Background Check

- (a) If an individual has been convicted of an offense listed in A.C.A. §17-2-102(a), except those permanently disqualifying offenses found in A.C.A. §17-2-102(e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
1. An affected applicant for a license; or
 2. An individual holding a license subject to revocation.
- (b) The Board may grant a waiver upon consideration of the following, without limitation:
1. The age at which the offense was committed;
 2. The circumstances surrounding the offense;
 3. The length of time since the offense was committed;
 4. Subsequent work history since the offense was committed;

5. Employment references since the offense was committed;
 6. Character references since the offense was committed;
 7. Relevance of the offense to the occupational license; and
 8. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
- (c) A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
- (d) The Board will respond with a decision in writing and will state the reasons for the decision.

An appeal of a determination under this section will be subject to the Administrative Procedures Act §25-15-201 *et seq.*

IV. SUPERVISION

Section 4.1 SUPERVISION CONTENT

- (a) Supervision for the LAC must be provided by a LPC, in Arkansas who holds approved supervisor status from the Board and whose license is in good standing.
- (b) Supervision for the LAMFT must be provided by a LMFT, in Arkansas who holds approved supervisor status from the Board and whose license is in good standing.
- (c) Supervision hours for applicants moving into the state must be approved by the Board, unless the applicant has held a current full license in good standing for three (3) years from their state of origin. In this case the Board will review the applicants file under the “Licensure by Endorsement” (Section 9.1).
- (d) Counselors or Marriage and Family Therapists licensed at the associate level must complete 3000 Client Contact Hours (CCH) with supervision. The ratio for both the LAC and LAMFT will be one (1) hour of supervision for every ten (10) hours of client contact for the first five hundred (500) direct CCH (Level 1) and then one (1) hour of supervision for every twenty (20) CCH for the remaining twenty-five hundred (2500) hours (Level 2). A direct client contact hour is defined as face-to-face contact with a client(s) in a therapeutic interaction with individuals or groups.
- (e) The LAC and LAMFT are required to have a minimum of 3000 hours of client contact, 2200 hours defined as direct client contact. No more than 800 hours of indirect client contact may be counted in Level 2. Indirect Client Contact means consultation, case management, paperwork, staffing, billing and test administration when the clinician is not working face-to-face with the individuals or groups, but the services are related to the direct care of the individual or groups.

- (f) The total hours of supervised practice are 175 clock hours of supervision.
- (g) During the first 500 direct client hours (Level 1), no indirect hours can be counted.
- (h) Dyadic supervision (1 supervisor and 2 supervisees) is recorded as individual supervision.
- (i) Group supervision may not exceed half of the 175 hours of supervision. A supervision group consists of 3 to 6 supervisees with the contracted supervisor. Group supervision may be counted in both levels.
- (j) Technology assisted supervision cannot exceed 50% of supervision hours. Technology assisted supervision may be counted in both levels.
- (k) LAMFTs must have a minimum of 1000 direct client contact hours in family/relational/group therapy.
- (l) Group therapy sessions are reported in clock hours of the sessions, not the clock time multiplied by the number of clients in the group.
- (m) Post-master's course work necessary for application for an Arkansas license may not be applied to the required supervised work experience in accordance with the rules.
- (n) A licensee may reduce CCH/Supervision hours by completing any of the following:
 - 1. One hundred (100) CCH may be gained for each three (3) graduate semester hours earned beyond the master's degree, provided that the hours are clearly related to the field of counseling or marriage and family therapy and are acceptable to the Board. Up to two thousand (2000) CCH may be gained for each sixty (60) graduate semester hours.
 - 2. The LAC/LAMFT may petition the Board in writing to take the National Clinical Mental Health Counselor Exam (NCMHCE), with recommendation of the contracted supervisor, upon the completion of Level 1. When approved, the applicant may apply to the National Board for Certified Counselors (NBCC) and take the NCMHCE. A passing score on the NCMHCE will reduce the number of CCH required by 500. The applicant will send test application and test fee directly to NBCC.

Section 4.2 SUPERVISEE REQUIREMENTS AND RESTRICTIONS

- (a) All LAC and LAMFT must have a Board- approved supervision agreement prior to providing any therapy services. The LAC/LAMFT must notify the Board immediately and in writing of any proposed change in supervisors. The LAC/LAMFT must obtain Board approval of any change in supervisors. Failure to maintain an approved current supervision agreement may result in license suspension or revocation.
- (b) Counselors or Marriage and Family Therapists licensed at the associate level may offer professional counseling services beginning the date of approval on a valid and current supervision agreement filed with the Board and be under the supervision of a Board approved supervisor. No client may be seen prior to that date.
- (c) The LAC or LAMFT is the responsible party for:
 - 1. Maintaining a current, valid, and approved supervision agreement on file with the Board prior to providing any counseling services. The primary responsibility is with the LAC or LAMFT, but is a shared responsibility with the supervisor.
 - 2. Maintaining an accurate Statement of Intent and filing a copy of the current Board approved statement with the supervisor of record.
 - 3. Submission of client contact hours report and evaluation completed with the supervisor every six (6) months.
- (d) Supervisees must carefully avoid multiple relationships with supervisors that interfere with the supervisory relationship; such as, having the ability to hire or dismiss the supervisee from employment.

Section 4.3 SUPERVISOR REQUIREMENTS AND RESTRICTIONS

- (a) Board Approved Supervisor Requirements:
 - 1. Supervisor must be fully licensed for three (3) years and be in good standing as a LPC and/or a LMFT in Arkansas.
 - 2. Supervisor must document the completion of three (3) hour post-masters graduate course in clinical supervision which included eighteen (18) hours of supervised experience in supervision.
 - 3. Supervisor must submit the Board Approved Supervisor Status application and fee.

4. Prior to receiving the Approved Supervisor Status, applicant must complete an Oral interview.
- (b) Supervisor Restrictions:
1. A Counselor or Therapist, holding Board Approved Supervisor Status, shall not sign new supervision plans/agreements if supervisor's license has not been renewed or if the supervisor is under investigation. If under investigation, no new contracts may be signed or submitted to the Board until all reviews, hearings, or disciplinary actions (if any in progress) are completed and resolved.
 2. Supervisors will be limited to twelve (12) supervision agreements at any given time. Exceptions to the limitation of twelve (12) may be made only at Board initiated request to a designated supervisor.
 3. The Board office staff may not approve supervision agreements to exceed twelve supervisees (12) for any one supervisor.
 4. Supervisors must have a Board approved copy of a supervision agreement dated prior to providing supervision to a LAC or LAMFT.
 5. Board approved supervisors of LAC/LAMFT must carefully avoid multiple relationships with supervisees that interfere with the supervisory relationship; such as, administrative supervisors within agencies with any level of direct or indirect administrative authority over the supervisee.
 6. The contracted supervisor may not delegate supervision responsibility to any other individual. The contracted supervisor should have an emergency plan if he/she were to be unavailable.

Section 4.4 SUPERVISION REPORTS AND EVALUATIONS

- (a) Supervision evaluations and Client Contact Hours reports are due every six (6) months regardless of the number of CCH accumulated.
- (b) The LAC or LAMFT is the party responsible for submission of supervision reports and evaluations every six (6) months.
- (c) The maximum of a thirty (30) day grace period, following the scheduled due date, is allowed for the Board to receive the six (6) month reports and evaluations.
- (d) Reports submitted over thirty days late will be reviewed by the Board on a case by case basis to determine whether or not the hours will be accepted. The licensee and the supervisor must send written explanation for the late report. The Board will evaluate the stated reasons for the late reports. The Board may request the

Supervisor and Supervisee to meet with the Board for additional information prior to making a decision concerning the situation.

- (e) A continual pattern of violation and failure to comply with the rule may result in an Administrative Hearing for disciplinary action, suspension or revocation of license.
- (f) The supervisor and the supervisee are both the responsible parties for maintaining a current Board approved supervision agreement.

V. APPLICATION REQUIREMENTS

Section 5.1 STATEMENT OF INTENT

The Statement of Intent to practice must be completed, signed and dated by the applicant. The statement must be consistent with the credentials and specializations documented by the licensee and be approved by the Board.

Section 5.2 TRANSCRIPTS

- (a) Applicants must submit unofficial transcript documentation for Board review. An official transcript conferring the Master's Degree must be submitted prior to issuing the license. The Board office staff will review applicants' transcripts to ensure:
 - 1. That all academic coursework for licensure has been completed at institutions of higher education having accreditation recognized by the Board for degree programs and courses;
 - 2. That applicants are minimally qualified to sit for the appropriate written examination(s) by having completed either the required CACREP or COAMFTE, or equivalent core curriculum courses;
 - 3. That core curriculum courses have been completed prior to admission to written examination/examinations unless exempt under section 6.2(e); and
 - 4. That all course grades are B- or above.
- (b) If the transcript courses titles are ambiguous or do not adequately convey the pertinent content of the courses, the Board office staff is to request documentation of content from the applicant for clarification purposes.

Section 5.3 REFERENCES

- (a) The applicant will submit a minimum of four (4) references. Copies of references sent directly from other state boards or university placement centers will be accepted by endorsement if no more than five years old. The applicant must include references from two (2) full time or part time faculty members in the degree granting training

program, one (1) supervisor of the applicant's clinical work and one (1) from another mental health professional. If the applicant has been licensed for more than three (3) years from another state, then faculty references are not required. Four (4) references are required from those familiar with the applicant's practice skills.

- (b) The Board will not accept evaluations recommendations, and documentation of supervised experience from persons related either by blood or marriage. Current members of the Board may not submit references for the applicants.

Section 5.4 BOARD DECISIONS

An affirmative vote of a majority of those Board members present and voting will be held as evidence of the following:

- (a) The applicant has passed an oral interview, if required;
- (b) Application is processed for the Associate or the Professional License as determined by the documented, approved post-master's supervised work experience.
- (c) The applicant has been granted the license based upon satisfactory completion of the application process.

Section 5.5 APPLICANT STATUS WITH OTHER PROFESSIONAL ORGANIZATIONS AND BOARDS

Applications from individuals who are under investigation, sanction, probation, disciplinary supervision, revocation, or rehabilitation by counseling, psychology, social work, or other related Boards or credentialing bodies will not be considered for an Arkansas license until documentation from the issuing body is received that the sanctions are removed or completed.

Section 5.6 DURATION OF APPLICATION

- (a) Applications are active for twelve (12) calendar months from the date the application is received in the Board office.
- (b) If the application process is not completed within (12) twelve months from receipt of the application by the Board, an applicant may request that the Board extend the twelve-month application window. If an extension is not requested, or is denied, the application becomes void and the applicant must apply as a new applicant.
- (c) If new requirements have been placed for applicants in the twelve-month window the Board may require that the new requirements be met within the extension period as part of the application extension approval.
- (d) A second extension period is discouraged and will only be considered by the Board

when very unusual, extenuating circumstances are documented.

- (e) Under no circumstances will the Board grant more than two (2) application extensions.

VI. EXAMINATIONS

Section 6.1 GENERAL ADMINISTRATION

- (a) Applicants whose credentials meet the requirements of Ark. Code Ann. § 17-27-301 through 305, will be issued an approval letter from the Board to proceed with the written examination. Oral interviews may be required by the Board if deemed necessary.
- (b) Each year the Board will contract for the administration of:
 - 1. The National Counselor Examinations (NCE) with the National Board for Certified Counselors (NBCC).
 - 2. The National Clinical Mental Health Counselor Examinations (NCMHCE) with NBCC.
 - 3. The Examinations in Marital and Family Therapy with the Association of Marital and Family Therapy Regulatory Boards (AMFTRB).
 - 4. The Arkansas Board of Examiners in Counseling Jurisprudence Exam with NBCC.
- (c) Cut-off scores established by the national examination agencies for each examination date are the minimum scores accepted by the Board for an applicant to meet respective written examination requirements for licensure.
- (d) An applicant who fails the required written examinations or oral interview must wait three (3) months before the next attempt. An applicant will be approved by the Board for each subsequent attempt following the three (3) month interval.

Section 6.2 WRITTEN EXAMINATIONS

- (a) The Board will adopt a prepared standardized test covering the specialized knowledge common to each license. The Board may contract with test design specialists to prepare and provide materials for such testing and to revise the examination as deemed necessary. Subtests in specialty skill areas may be a part of updating. The pass score determined for each examination is the acceptable score determined by the Board to be the pass level.

- (b) All applicants for licensure must complete one of the following applicable written examinations.
 - 1. Counselor applicants must satisfactorily complete the National Counselor Examination (NCE) or, National Clinical Mental Health Counselor Examination (NCMHCE) unless applicant meets criteria as outlined in Section 9.1.
 - 2. Marriage and Family Therapist applicants must satisfactorily complete the American Marriage and Family Therapy Regulatory Board (AMFTRB) examination unless applicant meets criteria as outlined in Section 9.1.
- (c) All applicants must provide verification of a successful passing score on the Arkansas Board of Examiners in Counseling Jurisprudence Exam when such exam becomes a part of the application process.
- (d) Submission of application documentation and fees for national written examinations occurs in two (2) steps:
 - 1. Test application and associated fees must be made directly to the national examining organizations for admission to sit for the written examinations. The test applications and fees for written examinations must comply with the test company's deadlines.
 - 2. The licensure application, unofficial transcripts, core curriculum and fees must be received by the Board office for the applicant to receive approval to take the national exam.
- (e) Persons who are enrolled in the final semester of graduate study in counseling or marriage and family therapy and have completed or are currently enrolled in the core curriculum courses may be admitted to the written examination by submitting to the Board, with their application, a letter stating their projected graduation date from one of the following college or university officials:
 - 1. Graduate Coordinator
 - 2. Department Chair
 - 3. Registrar
 - 4. Associate Dean
 - 5. Dean

Section 6.3 ORAL INTERVIEWS

- (a) All individuals applying for licensure may be required to complete an oral interview prior to being granted a license.
- (b) Individuals applying for Board Approved Supervisor Status will be required to

successfully pass an oral interview.

- (c) An oral interview may be scheduled for applicants upon receipt by the Board of the following: a passing score on the written examinations, the applicant's final official transcripts reflecting degree conferred, background checks, and all other application requirements.
- (d) The oral interview may include a review of the applicant's Statement of Intent, questions from the Board relative to the profession of counseling/therapy, and questions about credentials submitted with the application.
- (e) If there are unresolved questions, the Board may require an oral interview of any applicant.

Section 6.4 UNRESOLVED QUESTIONS

Should the Board have unresolved questions of competence it may require any one or all of the following:

- (a) Additional academic work;
- (b) Additional supervised experience;
- (c) Additional training;
- (d) Additional references or recommendations;
- (e) Clarification of Statement of Intent;
- (f) Oral Interview;
- (g) Training documentation;
- (h) Other evidence deemed necessary to satisfy the Board as to the qualifications and/or fitness and competence of the applicant to practice as a counselor or marriage and family therapist.

VII. LICENSE RENEWAL

Section 7.1 RENEWAL AND FEES

- (a) All licenses expire biennially on May 31 of the renewal year.
- (b) The biennial license renewal fee is due and payable by May 31 of the renewal year.
- (c) Failure to pay the biennial fee within the time stated shall automatically suspend the right of any licensee to practice while delinquent. Ark. Code Ann. §17-27-307(2) (A). Such lapsed license may be renewed within a period of twelve (12) months, from the expiration date, by payment of all fees and Board requirements.
- (d) A late fee will be assessed if the renewal fee is postmarked after midnight, May 31 of the renewal year.

- (e) Failure to renew a license within twelve (12) months from the date of expiration will necessitate applying for the license as a new applicant meeting all requirements in effect as of the date the new application is received in the Board office. In this circumstance, prior to the application being processed, the applicant may be required to appear before the Board to explain the failure to meet the renewal deadlines.

Section 7.2 CONTINUING EDUCATION

- (a) No license will be renewed without evidence of satisfactory completion of a minimum of twenty-four (24) clock hours of continued professional education (CE) and/or training in the twenty-four (24) months prior to renewal. Twenty one (21) of the twenty-four (24) clock hours must support the licensee's statement of intent. Evidence must also be submitted of a minimum of three (3) clock hours obtained in ethics relevant to the license being renewed.
- (b) LACs, LPCs, LAMFTs, and LMFTs are responsible for maintaining all appropriate documentation of their continuing education hours completed during the previous twenty-four (24) months.
- (c) A percentage of all renewal notices may be audited and each licensee must submit proper documentation of CE credit. One-third of the file numbers each year may be selected for audit.
- (d) If the licensee has not accumulated the required continuing education hours, the licensee may take the NCE, NCMHCE, or the AMFTRB examination and meet the national pass score as a substitute for continuing education clock hours.
- (e) The Board recognizes the following activities/experiences, which demonstrate professional benefit to the licensee, as acceptable CE:
 - 1. Attending workshops provided by a qualified professional from state and/or nationally recognized training programs. Workshops presented by a professional with a NBCC provider number are acceptable.
 - 2. Presenting at workshops provided by a qualified professional from state and/or nationally recognized training programs. Presenters will receive two (2) hours per one (1) hour of the initial presentation.
 - 3. Formal academic coursework related to the development or maintenance of skills related to the practice of counseling. These must be offered by regionally accredited academic institutions. Both undergraduate and graduate course work will be acceptable. 15 hours of CE credit may be counted for every 1 hour of course work.
 - 4. Documentation of teaching a new course or publishing a journal article or book in an area of counseling or marriage and family therapy. 10 hours of CE credit may

be counted.

5. Relevant professional service in leadership positions such as officers of the state, regional, or national professional associations or members of the Arkansas Board of Examiners in Counseling. 10 hours of CE credit may be counted.
- (f) For licensees who possess both the LAC/LPC and LAMFT/LMFT, the continuing education requirement will be 24 hours, with 3 hours minimum in Ethics. The remaining 21 hours must indicate a balance between counseling and marriage and family therapy content.
- (g) Six (6) continuing education hours in supervision content are required each renewal period for Board approved supervisors. Three (3) of the six (6) clock hours must be from Board recognized state associations or an Arkansas university associated workshop or program.
- (h) Any licensee with a specialization claimed on the Statement of Intent must have CE hours specific to that specialization.

Section 7.3 STATEMENT OF INTENT

- (a) The Statement of Intent must be reviewed carefully and at least one theoretical approach to counseling must be checked and some techniques used in conjunction with that approach must be checked.
- (b) Specializations noted on the Statement of Intent must be supported by appropriate training and/or certification.
- (c) The approved Statement of Intent will be in force for the license renewal period unless amended.
- (d) The Statement of Intent may be revised at any time the scope of practice changes. The revised Statement of Intent must be submitted to the Board for approval.

Section 7.4 RENEWAL NOTICE

Notices of renewal will be sent prior to the renewal due date. All renewal forms are available on the Board's website or may be requested from the Board office. Completion of such documentation by the licensee is mandatory prior to license renewal.

Section 7.5 NON-PRACTICING STATUS

A non-practicing status is available for extenuating circumstances, whether health related, leaving the field temporarily, retirement or military deployment. The licensee must submit a request for non-practicing status in writing describing circumstances for the request. If approved, the licensee must submit the biannual non-practicing renewal fee and

proof of the required CEs. Licensees must submit an attestation that he/she will not practice counseling or marriage and family therapy while in non-practicing status. Non-practicing status may be renewed twice without additional approval from the Board.

Section 7.6 UPDATING CONTACT INFORMATION

All persons holding a license issued by the Board are required to provide and maintain current address and contact information on file with the Board so that the Board can remain in contact and provide notice of complaints and/or hearings. The licensee is required to provide written notice to the Board of any change in business and/or residence within ten (10) working days of the change. Notices of complaints and/or hearings sent by mail will be addressed to the latest address on file with the Board.

VIII. DISCIPLINE

Section 8.1 COMPLAINTS

- (a) When information or a complaint is received by the Board, and that information or complaint may affect the licensure of an applicant, the informant is required to present the information to the Board in signed, written form unless this creates eminent danger to the informant.
- (b) The Board will appoint a sub-committee to review all complaints, consisting of the Executive Director, the Attorney General representative and one current Board member.
- (c) The following may be taken as a result of the sub-committee's review:
 - 1. Close the complaint with no further action.
 - 2. Send a letter of reprimand or caution to the licensee.
 - 3. Process a Consent Order and Resolution Agreement with the licensee that specifies conditions to be met and maintained;
 - 4. Hold an Administrative Hearing to determine whether disciplinary action should be taken.

Section 8.2 HEARINGS

- (a) When appropriate, informal hearing procedures may be used to attempt to resolve complaints in lieu of an administrative hearing.
- (b) Hearings to revoke or suspend a license or to impose other disciplinary sanctions are considered to be adjudicative hearings. The Board acts in a quasi-judicial capacity when it conducts an adjudicative hearing.

- (c) The Arkansas Administrative Procedure Act (APA) provides the basic framework for the conducting of adjudicative hearings.
- (d) These rules apply in all administrative adjudications conducted by the Board.
- (e) PRESIDING OFFICER - The Board Chairperson shall preside at the hearing or may designate one or more members of the Board or one or more examiners, referees, or hearing officers to preside at a hearing.
- (f) APPEARANCES
 - 1. Any party appearing in any agency proceeding has the right, at his or her own expense, to be represented by counsel. Alternatively, the respondent may appear on his or her own behalf.
 - 2. Any attorney representing a party to an adjudicatory proceeding must file notice of appearance as soon as possible.
 - 3. Service on counsel of record is the equivalent of service on the party represented.
 - 4. On written motion served on the party represented and all other parties of record, the presiding officer may grant counsel of record leave to withdraw for good cause shown.
- (g) CONSOLIDATION – If there are separate matters that involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.
- (h) NOTICE OF INTERESTED PARTIES – If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may enter an order requiring that an absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.
- (i) SERVICE OF PAPERS – Unless the presiding officer otherwise orders, every pleading and every other paper filed for the proceeding, except applications for witness subpoenas and the subpoenas, shall be served on each party or the party's representative at the address on file with the Board.
- (j) INITIATION & NOTICE OF HEARING
 - 1. An administrative adjudication is initiated by the issuance by the Board of a notice of hearing.

2. The notice of hearing will be sent to the respondent by U.S. Mail, return receipt requested, delivery restricted to the named recipient or his agent. Notice shall be sufficient when it is so mailed to the respondent's latest address on file with the agency.
3. Notice will be mailed at least twenty one (21) days before the scheduled hearing unless an emergency is declared.
4. The notice will include:
 - a. A statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held; and
 - c. A short and plain statement of the matters of fact and law asserted.

(k) MOTIONS – All requests for relief will be made by motion.

1. Motions must be in writing or made on the record during a hearing.
2. A motion must fully state the action requested and the grounds relied upon.
3. The original written motion will be filed with the agency.
4. When time allows, the other parties may, within seven (7) days of the service of the written motion, file a response in opposition.
5. The presiding officer may conduct such proceedings and enter such orders as are deemed necessary to address issues raised by the motion.
6. However, a presiding officer, other than the Counseling Board, will not enter a dispositive order unless expressly authorized in writing to do so.

(l) ANSWER – A respondent may file an answer no later than ten (10) days before the scheduled hearing.

(m) DISCOVERY

1. Upon written request, the agency will provide the information designated in AC.A § 25-15-208(a) (3).
2. Such requests should be received by the agency at least ten (10) days before the scheduled hearing.

(n) CONTINUANCES – The Board Chairman may grant a continuance of hearing for good cause shown.

1. Requests for continuances will be made in writing.

2. The request must state the grounds to be considered and be made as soon as practicable and, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing.
3. In determining whether to grant a continuance, the Board Chairman may consider:
 - a. Prior continuances;
 - b. The interests of all parties;
 - c. The likelihood of informal settlements;
 - d. The existence of an emergency;
 - e. Any objection;
 - f. Any applicable time requirement;
 - g. The existence of a conflict of the schedules of counsel, parties, or witnesses;
 - h. The time limits of the request, and;
 - i. Other relevant factors.
4. The Board Chairman may require documentation of any grounds for continuance.

(o) HEARING PROCEDURES

1. The presiding officer presides at the hearing and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the proceedings; provided, however, any presiding officer other than the Counseling Board shall not enter a dispositive order or proposed decision unless expressly authorized in writing to do so.
2. All objections must be made in a timely manner and stated on the record.
3. Parties have the right to participate or to be represented by counsel in all hearings or pre-hearing conferences related to their case.
4. Subject to terms and conditions prescribed by the Administrative Procedure Act, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and, upon request by the agency, may submit briefs and engage in oral argument.
5. The presiding officer is charged, with maintaining the decorum of the hearing and may refuse to admit, or may expel, anyone whose conduct is disorderly.

(p) ORDER OF PROCEEDINGS – The presiding officer will conduct the hearing in the following manner:

1. The presiding officer will give an opening statement, briefly describing the nature of the proceedings.
2. The parties are to be given the opportunity to present opening statements.
3. The parties will be allowed to present their cases in the sequence determined by the presiding officer.
 - a. Each witness must be sworn or affirmed by the presiding officer, or the court reporter, and be subject to examination and cross-examination as well as questioning by the Counseling Board. The presiding officer may limit questioning in a manner consistent with the law.
 - b. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

(q) EVIDENCE

1. The presiding officer shall rule on the admissibility of evidence and may, when appropriate, take official notice of facts in accordance with all applicable requirements of law.
2. Stipulation of facts is encouraged. The agency may make a decision based on stipulated facts.
3. Evidence in the proceeding must be confined to the issues set forth in the hearing notice, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence outside the scope of the notice, over the objection of a party who did not have actual notice of those issues, that party, upon timely request, will receive a continuance sufficient to prepare for the additional issue and to permit amendment of pleadings.
4. A party seeking admission of an exhibit must provide twelve (12) copies of each exhibit at the hearing. The presiding officer must provide the opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence must be appropriately marked and be made part of the record.
5. Any party may object to specific evidence or any request limits on the scope of the examination or cross-examination. A brief statement of the grounds upon which it is based shall accompany such an objection. The objection, the ruling on the objection, and the reasons for the ruling will

be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve the ruling until written decision.

6. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.
 7. Irrelevant, immaterial, and unduly repetitive evidence will be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men and women in the conduct of their affairs,
 8. Reasonable inferences. The finder of fact may base its findings of fact upon reasonable inferences derived from other evidence received.
- (r) **DEFAULT** – If a party fails to appear or participate in an administrative adjudication after proper service of notice, the agency may proceed with the hearing and render a decision in the absence of the party.
- (s) **SUBPOENAS**
1. At the request of any party, the agency shall issue subpoenas for the attendance of witnesses at the hearing. The requesting party shall specify whether the witness is also requested to bring documents and reasonably identify said documents.
 2. A subpoena may be served by any person specified by law to serve process or by any person who is not a party and who is eighteen (18) years of age or older. Delivering a copy to the person named in the subpoena shall make service. Proof of service may be made by affidavit of the person making service. The party seeking the subpoena shall have the burden of obtaining service of the process and shall be charged with the responsibility of tendering appropriate mileage fees and witness fees pursuant to Rule 45, Arkansas Rules of Civil Procedure. The witness must be served at least two days prior to the hearing. For good cause, the agency may authorize the subpoena to be served less than two days before the hearing.
 3. Any motion to quash or limit the subpoena shall be filed with the agency and shall state the grounds relied upon.
- (t) **RECORDING OF THE PROCEEDINGS** – The responsibility to record the testimony heard at a hearing is borne by the Board. In the event of the filing of a petition for judicial review, the Board will provide a verbatim transcript of testimony taken

before the Board. If requested under FOI, copies of the transcript will be provided at a cost per page.

(u) **FACTORS TO BE CONSIDERED IN IMPOSING SANCTIONS** – In addition to any other considerations permitted by Arkansas Code Annotated § 17-27-101 et seq. if applicable, the agency in imposing any sanction may consider the following:

1. The nature and degree of the misconduct for which the licensee is being sanctioned.
2. The seriousness and circumstances surrounding this misconduct. The loss or damage to clients or others.
3. The assurance that those who seek similar professional services in the future will be protected from the type of misconduct found.
4. The profit to the licensee.
5. The avoidance of repetition.
6. Whether the conduct was deliberate, intentional, or negligent.
7. The deterrent effect on others.
8. The conduct of the individual during the course of the disciplinary proceeding.
9. The professional's prior disciplinary record, including warnings.
10. Matters offered by the professional in mitigation or extenuation, except that a claim of disability or impairment resulting from the use of alcohol or drugs may not be considered unless the professional demonstrates that he or she is successfully pursuing in good faith a program of recovery.

(v) **FINAL ORDER** – The Board will serve on the respondent a written order that reflects the action taken by the agency.

1. The order will include a recitation of facts found based on testimony and other evidence presented and reasonable inferences derived from the evidence pertinent to the issues of the case.
2. It will also state conclusion of law and directives or other disposition entered against or in favor of the respondent.

SECTION 8.3 SUSPENSION, REVOCATION, DENIAL OF LICENSE ISSUE,
DENIAL OF RENEWAL, & DENIAL OF APPLICATION FOR PROCESSING

- (a) In accordance with the Arkansas Code Annotated §17-26-309 and § 25-15-201 et seq (Arkansas Administration Procedure Act), the Board will suspend, revoke, or deny renewal of any license if the Board finds that holder thereof:
1. Has been found guilty of violating any ethical or professional standard under which the license holder practices; has failed to comply with mandated reporting as per state laws.
 2. Has not paid biennial renewal fee within the time stated.
 3. Has not satisfied the Board, by May 31 of the renewal year, with evidence of the completion of relevant professional or continued education experience.
 4. Has been found to be incompetent, has misused the license, or has been negligent in the rendering of counseling services.
 5. Has pleaded guilty, or nolo contendere to or been found guilty of any offense listed under Ark. Code Ann. §17-2-102.
 6. Has failed to follow any special directions of the Board.
 7. Has had one's professional license/certificate revoked, suspended, or is under investigation by any other Arkansas Board or certifying/licensing agency or by any state Board of certifying/licensing agency.
 8. Has failed to meet requirements of the Criminal Background Check. (Ark. Code Ann. § 17-27-313).
- (b) ALTERNATIVE SANCTIONS – In addition, the Board may, after a hearing, impose upon a licensee alternative sanctions provided by Ark. Code Ann. § 25-15-217 which include a civil penalty not to exceed \$500.00 per violation.
- (c) If the Board finds that it has erred in the granting of a license, the Board will give written notice by certified or signature confirmation mail of intent to annul the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within 30 days.
- (d) During the period of suspension, the licensee shall not practice counseling/therapy in the state of Arkansas. If the licensee practices during this time, the Board or any citizen of the state of Arkansas may petition for court proceedings to prohibit the unlawful practice of counseling/therapy and/or false representation as a licensed counselor or marriage and family therapist.

- (e) The Board, or any member thereof, or any citizen of the state of Arkansas, may petition for court proceedings to prohibit the unlawful practice of counseling or marriage and family/therapy and/or false representation as a licensed counselor or marriage and family therapist.

(f) DENIAL OF LICENSE

1. If a preliminary determination is made that the application should be denied, the Board will inform the applicant of the opportunity for a hearing on the application.
2. The grounds or basis for the proposed denial of a license will be set forth in writing by the Board. Any hearing on the denial of a license will be conducted in accordance with the Arkansas Administrative Procedure Act and unless otherwise provided by law, the applicant has the burden of establishing entitlement to the license.

(g) SUSPENSION, REVOCATION, ANNULMENT OR WITHDRAWAL

1. Prior to the entry of a final order to suspend, revoke, annul or withdraw a license, or to impose other sanctions upon a licensee, the Board will serve the licensee a notice of hearing in the manner set out in Arkansas Code Annotated § 25-15-208.
2. The Board has the burden of proving the alleged facts and violations of law stated in the notice.

(h) EMERGENCY ACTION

1. If the Board finds that the public health, safety, or welfare imperatively requires emergency action and incorporates that finding in its order, the Board can summarily suspend, limit, or restrict a license. The notice requirement in Section 8.2(6) does not apply and must not be construed to prevent a hearing at the earliest time practicable.
2. Emergency Order: An emergency adjudicative order must contain findings that the public health, safety, and welfare imperatively require emergency action to be taken by the Board. The written order must include notification of the Written Notice. The written emergency adjudicative order will be immediately delivered to persons who are required to comply with the order. One or more of the following procedures will be used:
 - a. Personal Delivery;
 - b. Certified mail, return receipt requested, to the last address on file with the agency;

- c. First class mail to the last address on file with the agency;
- d. Fax notice may be used as the sole method of delivery if the person required to comply with the order has filed a written request that the Board orders be sent by fax and has provided a fax number for that purpose;
- e. Oral notice. Unless the written emergency order is served by personal delivery on the same day that the order issues, the Board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.
- f. Unless otherwise provided by law, within ten (10) days after emergency action taken pursuant to paragraph 8.3 (h) of this rule, the agency must initiate a formal suspension or revocation proceeding.

(i) VOLUNTARY SURRENDER OF LICENSE

The licensee, in lieu of formal disciplinary proceedings, may offer to surrender his or her license, subject to the Board's determination to accept the proffered surrender, rather than conducting a formal disciplinary proceeding.

(j) DUTY OF A SANCTIONED PROFESSIONAL

In every case in which a professional's license is revoked, suspended or surrendered, the licensee must:

1. Return his or her license and any license pocket cards to the agency's office;
2. Notify all of his or her clients in writing that his or her license has been revoked, suspended, or surrendered;
3. Notify all clients to make arrangements for other professional services, calling attention to any urgency in seeking the substitution of another licensed professional;
4. Deliver to all clients any papers or property to which they are entitled, or notify the client of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property;
5. Refund any part of the fees paid in advance that have not been earned;
6. Keep and maintain a record of the steps necessary to accomplish the foregoing;

7. File with the Board a list of all other state, federal, and administrative jurisdictions by which he or she is licensed. Upon such filing, the agency will notify those entitled of the revocation, suspension, or surrender; and
8. Within thirty (30) days of revocation, suspension, or surrender of the license, file an affidavit with the Board that he or she has fully complied with the provisions of the order and completely performed the foregoing or provide a full explanation of the reasons for his or her non-compliance. Such affidavit shall also set forth the address where communications may thereafter be directed to the respondent.

(k) REINSTATEMENT AFTER SUSPENSION

1. An order suspending a license may provide that a person desiring reinstatement may file with the Board a verified petition requesting reinstatement.
2. The petition for reinstatement must set out the following:
 - a. That the individual has fully and promptly complied with the requirements of Section 8.3(j) of these rules pertaining to the duty of a sanctioned professional;
 - b. That the individual has refrained from practicing in this profession during the period of suspension;
 - c. That the individual's license fee is current or has been tendered to the agency;
 - d. That the individual has fully complied with any requirements imposed as conditions for reinstatement.
 - e. Any knowing misstatement of fact may constitute grounds for denial or revocation of reinstatement.
3. Failure to comply with the provisions of Section 8.3 (j) 7 & (j) 8 of the Rule precludes consideration for reinstatement.
4. No individual will be reinstated unless the Board of Examiners in Counseling approves reinstatement by majority vote.

(l) RE-LICENSURE FOR REVOKED OR SURRENDERED LICENSE

1. No individual who has had his or her license revoked or who has surrendered

his or her license will be licensed, except on petition made to the Board. The application for re-licensure is not allowed until at least five years after the revocation or surrender of license took effect.

2. The applicant bears the burden of proof that he or she is rehabilitated following the revocation or surrender of the license before the application for re-licensure is received.
3. The Board may impose any appropriate conditions or limitations on a license to protect the public health, safety, and welfare.
4. The Board may require that the person seeking re-licensure take licensing examination.
5. The Board may require that the person seeking re-licensure have supervision for a specified time and ratio.
6. When applying for re-licensure after revocation or surrender of his or her license, the licensee must prove that he or she can engage in the conduct authorized by the license without undue risk to the public health, safety, and welfare, and that he or she is otherwise qualified for the license pursuant to Arkansas Code Annotated § 17-27-101 et seq and Rules in effect the date the application for re-licensure is received.

Section 8.4 UNAUTHORIZED COUNSELING

- (a) When the Board is made aware of a violation, or possible violation, of Ark. Code Ann. § 17-27-101 et seq., a certified or registered letter with return receipt, showing delivery to addressee only, shall be mailed to the last known address of the person in question requesting that the person cease and desist the practice of counseling without a license. The letter will direct attention to pertinent aspects of the law and the rules governing practice of counselors and marriage and family therapists.
- (b) If the cease and desist letter does not induce the person to refrain from practicing, holding himself/herself out to practice, and/or the use of title or activities, in violation, the information shall be forwarded to the appropriate law enforcement authorities.

IX. LICENSING UNDER SPECIAL CONDITIONS

Section 9.1 LICENSURE BY ENDORSEMENT

Applicants from other states or Arkansas agencies must apply and complete the formal application process prior to license issue. The following rules apply to the process:

- (a) An applicant who has been licensed as a counselor or mental health professional in other state/states must submit a License Verification Form (LVF) from each state or agency.
- (b) Applicants who have continually maintained full licensure status as an LPC, LMFT or the equivalency for a minimum of three years (36 months) may be eligible for licensure endorsement by the Board. In addition to providing the application documentation described in Section 5 and 6 (i.e. Statement of Intent, Transcript, References, and examination scores), the applicant must provide verification that the license issued by another board is currently in good standing. Any history of disciplinary action, sanctions or license denial will be reviewed by the board.
- (c) Applicants who have continually maintained full licensure status as an LPC, LMFT or the equivalency for less than three years (36 months) may be eligible for licensure endorsement by the Board. A temporary license may be granted while an applicant completes the minimal educational requirements. In addition to meeting applicable requirements in Section 5 and 6, the applicant must provide verification that the license issued by another board is currently in good standing. Any history of disciplinary action, sanctions or license denial will be reviewed by the board. The applicant will need to document the total number of client contact hours (CCH) under supervision and the total number of supervision hours maintained. The Board will review the documented hours to determine the number of CCH and supervision hours required to meet licensure at the associate or full licensure status.
- (d) Applicants who have an associate, provisional, or an intern license from another state may be eligible for licensure by endorsement by the Board. A temporary license may be granted while completing the minimal educational requirements. In addition to meeting applicable requirements in Sections 5 and 6, the applicant must provide verification that the license issued by another Board is in good standing. Any history of disciplinary action, sanctions or license denial will be reviewed by the board. The applicant will need to document the total number of Client Contact Hours (CCH) under supervision and the total number of supervision hours maintained. The Board will review the documented hours to determine the number of CCH and supervision hours required to meet licensure at the associate or full licensure status.
- (e) Waiver of the NCE, NCMHCE, or the AMFTRB may be granted when the Board has determined that another examination is equivalent, or applicant meets licensure by endorsement rules.

Section 9.2 CONSULTING

- (a) Non-resident persons who are licensed by Counseling or Marriage and Family Therapy regulatory boards in other states or countries may provide consulting or research services within Arkansas for not more than thirty (30) days (discontinuous or continuous) per calendar year.

- (b) Consultant is defined as a licensed LPC/LMFT who has practiced as a professional for a minimum of three (3) years in another state and contracts with an Arkansas agency or institution for research, workshops, training, or for providing advice and guidance on professional issues.
- (c) Consultant activities and services must be short-term and contractual and must be sponsored and supervised by a licensed Arkansas LPC or LMFT. The Board must be notified in writing and approval obtained prior to any services being rendered.
- (d) Prospective employees, moving to Arkansas from another state, who are applying for an Arkansas license are not to be considered consultants and are not exempt from licensure.
- (e) Licensed Counselors or Marriage and Family Therapists who consult with other licensed professionals and/or develop relationships with Colleagues, employers and employees must follow the ACA and/or the AAMFT Code of Ethics sections related to professional relationships and consultation.

Section 9.3 OTHER PROFESSIONALS AND AGENCIES

- (a) Neither the National Counselor Examination nor the Association of Marital and Family Therapy Regulatory Board Examination will be waived for licensed Psychologists who apply for a license from the Board.
- (b) Licensed Psychological Examiners (LPEs) who apply for a LAC and/or LAMFT must minimally complete 1000 CCH of direct client contact. The maximum of two thousand (2000) CCH of supervised professional experience may be submitted for approval by the Board if the applicant documents supervised experience consistent with his/her Statement of Intent by submitting:
 - 1. Documentation from the Arkansas Board of Examiners in Psychology (ABEP); and
 - 2. Statement from the ABEP or LPE supervisor verifying the ratio of supervision to CCH and that the scope of the practice supervised was not related to assessment, appraisal, or testing as part of their practice.

Section 9.4 LICENSURE FOR ACTIVE DUTY SERVICE MEMBERS, RETURNING MILITARY VETERANS, AND THEIR SPOUSES

- (a) As used in this subsection:
 - 1. “automatic licensure” means the granting of occupational licensure without an individual’s having met occupational licensure requirements provided under Title 17 of the Arkansas Code or by these Rules.

2. “returning military veteran” means former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
- (b) The Board shall grant automatic licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:
1. An active duty military service member stationed in the State of Arkansas;
 2. A returning military veteran applying for licensure within one (1) year of his or her discharge from active duty; or
 3. The spouse of a person under Section 9.4(b) 1 or 2.
- (c) The Board shall grant automatic licensure upon receipt of all of the following:
1. Payment of the initial application and licensure fee;
 2. Evidence that the individual holds a substantially equivalent license in another state; and
 3. Evidence that the applicant is a qualified applicant under Section 9.4(b).

X. PROFESSIONAL ETHICS

- (a) The Board adopts the most current ACA Code of Ethics for all persons holding a LAC or LPC license.
- (b) The Board adopts the most current AAMFT Code of Ethics for all persons holding a LAMFT or LMFT license.
- (c) The counselor or marriage and family therapist (MFT) shall only refer after careful consideration and consultation and shall not abandon clients who seek assistance. Referrals shall only occur due to lack of personal or professional competence if the counselor or MFT is unable to effectively serve the client. No counselor or MFT licensed by the Board shall be sanctioned by the Board for referring current or potential clients due to lack of personal or professional competence. This referral clause does not absolve the counselor or MFT from adhering to non-discrimination.
- (d) Licensees holding multiple licenses must adhere to the codes of ethics of all professional certificates/licenses held and to the more stringent of the codes of ethics where there may be any appearance of conflict between codes.

XI. CLIENT COMMUNICATIONS AND MEDICAL RECORDS

The client of persons licensed by this Board has a privilege to refuse to disclose and to prevent any other person from disclosing his/her medical records or confidential

communications made for the purpose of diagnosis or treatment of his/her physical, mental or emotional condition, including alcohol or drug addiction, among himself/herself, the licensee, and persons who are participating in the diagnosis or treatment under the direction of the licensee, including members of the client's family. See Rules 501, 502 and 503, Arkansas Rules of Evidence. The licensee is presumed to have authority to claim the privilege on behalf of the patient. The privilege is subject to the exceptions listed in Rule 503(d). The following communications are not protected by the privilege:

- (a) Communications relevant to an issue in proceedings to hospitalize the client are not privileged.
- (b) Communications made in the course of a court ordered examination of the client are not privileged unless the court orders otherwise.
- (c) Medical records or communications relevant to an issue of the physical, mental, or emotional condition of the patient in any proceeding in which he or she relies upon the condition as an element of his or her claim or defense, or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of his or her claim or defense.
- (d) The licensee may be required to furnish medical records, and communications in the context of formal discovery procedures.

XII. THE PRACTICE OF TELEMEDICINE

Section 12.1 DEFINITIONS

- (a) "Distant site" means the location of the healthcare professional delivering services through telemedicine at the time the services are provided. Ark. Code Ann. §17-80-402(1).
- (b) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine. Ark. Code Ann. §17-80-402(2).
- (c) "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring. Ark. Code Ann. §17-80-402(5).
- (d) "Store-and-forward technology" means the asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at a distant site. Ark. Code Ann. § 17-80-402(6).

- (e) “Telemedicine” means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient. Telemedicine includes store-and-forward technology and remote patient monitoring. Ark. Code Ann. § 17-80-402(7).

Section 12.2 ESTABLISHING A LICENSED COUNSELOR OR MARRIAGE FAMILY THERAPIST/CLIENT RELATIONSHIP

A licensed counselor or marriage and family therapists/client relationship must be established in accordance with Ark. Code Ann. §§ 17-80-402 & 403 and Section 12.3 & 12.4 before the delivery of services via telemedicine. A client’s completing a psychosocial history online and forwarding it to a licensed counselor or marriage and family therapist is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology. A licensed counselor or marriage and family therapist exhibits gross negligence if he or she provides and/or recommends any form of treatment via telemedicine without first establishing a proper licensed counselor or marriage and family therapist/client relationship.

Section 12.3 MINIMUM REQUIREMENTS FOR LICENSED COUNSELOR OR MARRIAGE AND FAMILY THERAPIST/CLIENT RELATIONSHIP

For purposes of this regulation, a proper licensed counselor or marriage and family therapist/client relationship, at a minimum requires that:

- (a) The licensed counselor or marriage and family therapists performs an “in person” psychosocial assessment of the client adequate to establish a diagnosis and develop a treatment plan, OR
- (b) The licensed counselor or marriage and family therapist performs a face to face psychosocial assessment using real time audio and visual telemedicine technology that provides information at least equal to such information as would have been obtained by an in-person psychosocial assessment, OR
- (c) The licensed counselor or marriage and family therapist knows the client and the client’s general psychosocial issues through a previously established professional relationship; AND
- (d) Appropriate follow-up be provided or arranged, when necessary.

Section 12.4 WHEN A LICENSED COUNSELOR OR MARRIAGE AND FAMILY THERAPIST/CLIENT RELATIONSHIP IS DEEMED TO EXIST

For the purposes of this regulation, a proper licensed counselor or marriage and family therapist/client relationship is deemed to exist in the following situations:

- (a) When treatment is provided in consultation with, or upon referral by, another provider or treatment team who has an ongoing relationship with the client, and who has agreed to supervise the client's treatment, including follow up care.
- (b) On-call or cross-coverage situations arranged by the client's treating provider or treatment team.

Section 12.5 EXCEPTIONS

Recognizing a licensed counselor or marriage and family therapist's duty to adhere to the applicable standard of care and to comply with mandatory reporting laws, the following situations are excluded from the requirement of this regulation by Ark. Code Ann. § 17-80-403(a)(2):

- (a) Emergency situations where the life or health of the client is in danger or imminent danger.
- (b) Simply providing information of a generic nature not meant to be specific to an individual client.

Section 12.6 PROFESSIONAL RELATIONSHIP EXCEPTIONS

Under Ark. Code Ann. § 17-80-403(c), "Professional relationship" does not include a relationship between a licensed counselor or marriage and family therapist and a client established only by the following:

- (a) An internet questionnaire;
- (b) An email message;
- (c) Patient-generated medical history;
- (d) Audio-only communication, including without limitation interactive audio;
- (e) Text messaging;
- (f) A facsimile machine; or
- (g) Any combination thereof.

Section 12.7 REQUIREMENTS FOR SERVICES PROVIDED VIA TELEMEDICINE

The following requirements apply to all services provided by licensed counselors or marriage and family therapists using telemedicine.

- (a) The practice of counseling via telemedicine shall be held to the same standards of care as traditional in-person encounters.
- (b) The licensed counselor or marriage and family therapist must obtain a detailed explanation of the client's complaint from the client or the client's treating provider or treatment team.
- (c) If a decision is made to provide treatment, the licensed counselor or marriage and family therapist must agree to accept responsibility for the care of the client.
- (d) If follow-up care is indicated, the licensed counselor or marriage and family therapist must agree to provide or arrange for such follow-up care.
- (e) The licensed counselor or marriage and family therapist must keep a documented treatment record, including, but not limited to psychosocial history.
- (f) At the client's request, the licensed counselor or marriage and family therapist must make available to the client an electronic or hardcopy version of the client's treatment record documenting the encounter. Additionally, unless the client declines to consent, the licensed counselor or marriage and family therapist must forward a copy of the record of the encounter to the client's regular treating provider or treatment team if that provider or treatment team is not the same licensed counselor or marriage and family therapist delivering the service via telemedicine.
- (g) Services must be delivered in a transparent manner, including providing access to information identifying the licensed counselor or marriage and family therapist's licensure and other relevant certifications, as well as client financial responsibilities, in advance of the encounter.
- (h) If the client, at the recommendation of the licensed counselor or marriage and family therapist, needs to be seen in person, the licensed counselor or marriage and family therapist must arrange to see the client in person or direct the client to their regular treating provider or treatment team or other appropriate provider if the client does not have a treating provider or treatment team. Such recommendation shall be documented in the client's treatment record.
- (i) Licensed counselors or marriage and family therapists who deliver services through telemedicine must establish protocols for referrals for emergency services.

Section 12.8 SCOPE OF PRACTICE

Licensed counselors or marriage and family therapists may practice counseling via telemedicine within the definitions found in Section 1.9(b)&(h).

Section 12.9 CONFIDENTIALITY

Licensed counselors or marriage and family therapists who use technology to facilitate supervision, consultation, or other confidential meetings shall use appropriate precautions to protect the confidentiality of those communications. Precautions to protect confidentiality depend on the type of technology being used, and may include using passwords, firewalls, encryption, and antivirus software; using electronic service providers that rely on standards of security for data that are transmitted and stored; and ensuring a private setting when using their electronic devices.

XIII. FEES

Section 13.1 LICENSE APPLICATION FEES

Application Fee Initial LAC/LPC/LAMFT/LMFT License	\$ 100
Application for Board Approved Supervisor Status Fee	\$ 50
Application Extension Fee	\$ 50
New License Fee LAC to LPC or LAMFT to LMFT	\$ 50

Section 13.2 LICENSE FEES

Associates (LAC/LAMFT)	\$200
Professionals (LPC or LMFT)	\$250
Dual license LAC/LAMFT	\$350
Dual license LPC/LMFT	\$400

First license fee for all licenses is prorated based on the biennial license fee, according to the number of months licensed, one time only, beginning June 1 of the fiscal year of license issue.

Section 13.3 LICENSE RENEWAL FEES

Biennial license renewal-Associates (LAC/LAMFT)	\$200
Biennial license renewal-Professionals (LPC or LMFT)	\$250
Biennial Dual license renewal fee: LAC/LAMFT	\$350
Biennial Dual license renewal fee: LPC/LMFT	\$400
Late renewal fee	\$100 per month
Biennial Non-practicing status renewal fee	\$50

Section 13.4 LICENSE EXAMINATION FEES

NCE Examination – pay to NBCC
 NCMHCE Examination – pay to NBCC
 AMFTRB Examination -pay to AMFTRB
 Jurisprudence Examination – pay to NBCC

XIV. DECLARATORY ORDERS

Section 14.1 PURPOSE AND USE OF DECLARATORY ORDERS

A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the board has authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from a board. A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

Section 14.2 THE PETITION

The process to obtain a declaratory order is begun by filing with the Board a petition that provides the following information:

- (a) The caption shall read: Petition for Declaratory Order before the Arkansas Board of Examiners in Counseling.
- (b) The name, address, telephone number, and facsimile number of the petitioner.
- (c) The name, address, telephone number, and facsimile number of the attorney of the petitioner.
- (d) The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory order is sought.
- (e) A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order.
- (f) The signature of the petitioner or petitioner's attorney.
- (g) The date.
- (h) Request for a hearing, if desired.

Section 14.3 BOARD DISPOSITION

- (a) The board may hold a hearing to consider a petition for declaratory order. If a hearing is held, it shall be conducted in accordance with Ark. Code Ann. §25-15-208 and §25-15-213, and the board's rules for adjudicatory hearings.
- (b) The board may rely on the statements of fact set out in the petition without taking any

position with regard to validity of the facts. Within ninety (90) days of the filing of the petition, the board will render a final order denying the petition or issuing a declaratory order.