

2024 RULE REVIEW

LPC INITIAL FINDINGS

PROVISION NEEDING TO BE REPEALED



681.37 – BILLING AND FINANCIAL ARRANGEMENTS

- (c) A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code Chapter 164, will not be considered as a violation of state law relating to illegal remuneration.

Oversteps agency jurisdiction

681.41 – GENERAL ETHICAL REQUIREMENTS

- (c) A licensee must discourage a client from holding exaggerated or false ideas about the licensee's professional services, including, but not limited to, the effectiveness of the services, practice, qualifications, associations, or activities. If a licensee learns of exaggerated or false ideas held by a client or other person, the licensee must take immediate and reasonable action to correct the ideas held. *Unenforceable*
- (d) A licensee must make reasonable efforts to discourage others whom the licensee does not control from making misrepresentations; exaggerated or false claims; or false, deceptive, or fraudulent statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation; exaggerated or false claim; or false, deceptive, or fraudulent statement made by another, the licensee must take reasonable action to correct the statement. *Unenforceable*
- (f) A licensee may take reasonable action to inform medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others, or there is a probability of immediate mental or emotional injury to the client. *Governed by other law*

681.44 – DRUG AND ALCOHOL USE

A licensee must not use alcohol or drugs in a manner that adversely affects the licensee's ability to provide counseling.

681.41(m) - A licensee must not provide services while impaired by a physical, mental, or medical condition or by medication, drugs or alcohol.

Duplicative

681.47 – ASSUMED NAMES

- (a) An individual practice by a licensee may be established as a corporation, a limited liability partnership, a limited liability company, or other business entity in accordance with state or federal law.
- (b) An assumed or trade name used by a licensee must not be false, deceptive, or misleading as those terms are described in §681.49(b) of this title (relating to Advertising and Announcements).

Governed by other law

681.49 – ADVERTISING AND ANNOUNCEMENTS

- (b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:
 - (8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient

Unenforceable

681.81 – GENERAL ACADEMIC REQUIREMENTS

- (b) Degrees and course work received at foreign universities will be acceptable only if such course work would be counted as transfer credit by an accredited school. The applicant must provide the Council with documents and evidence to establish his or her formal education is equivalent to at least a master's degree granted by an accredited school. In order to meet this requirement the applicant must comply with Council §882.11 of this title (relating to Applicants with Foreign Degrees).

Governed by other rule

681.91 – LPC ASSOCIATE LICENSE

- (b) An LPC Associate must comply with all provisions of the Act and Council rules.
- 681.46 (a) Licensees are bound by the provisions of the Act and this chapter as well as the Council's rules and statutes.

Duplicative

681.92 – EXPERIENCE REQUIREMENTS

- (f) An LPC Associate may have up to two (2) supervisors at one time.
- 681.91(e) An LPC Associate may have no more than two (2) Council-approved LPC supervisors at any given time.

Duplicative

681.101 - EXAMINATIONS

- (b) The development or administration of the examination may be contracted to a national testing company.
- (c) The National Counselor Examination and the National Clinical Mental Health Counselor Exam are administered at testing centers located in various cities throughout the state. The jurisprudence exam is available online at the Council's website.

Unnecessary, non-regulatory

681.204 – OTHER ACTIONS

- (2) A conditional letter of agreement informs the licensee of the licensee's duties under the Act, the Council Act, or Council rules, whether the conduct or omission complained of appears to violate such duties, and creating Council ordered conditions for the long-term resolution of the issues in the complaint. This conditional letter of agreement specifies the immediate disposition of the complaint. The licensee is issued the conditional letter of agreement by staff; and a signature of agreement by the licensee is required. If the licensee fails to comply with all the Council ordered conditions in the specified time frame outlined in the conditional letter agreement, staff will open a new complaint arising out of non-compliance with the conditional letter agreement or the underlying conduct.

Oversteps agency authority



PROVISIONS NEEDING UPDATES AND STANDARDIZATION



COURT-RELATED PRACTICES

- 681.51 – Parenting Coordination
- 681.52 – Parenting Facilitation
- 681.53 – Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions

Align with court jurisdiction

MILITARY-RELATED APPLICATIONS

- 681.114 - Licensing of Military Service Members, Military Veterans, and Military Spouses

Align with Occupations Code Chapter 55

BOARD MEETINGS, COMMITTEES, AGENDAS, ETC.

- §681.3 Meetings
- §681.4 Transaction of Official Business
- §681.5 Agendas
- §681.9 Committees
- §681.11 Reimbursement for Expenses

Align internal operations

TELE-PRACTICE

- 681.41(e) – General Ethical Requirements - Technological means of communication may be used to facilitate the therapeutic counseling process.

Align terminology

PROVISIONS NEEDING AMENDMENT TO ALIGN WITH OPERATIONS



681.36 – CLIENT RECORDS

- (a) For each client, a licensee must keep accurate records of:
 - (1) signed informed consent, signed written receipt of information, or, in the case of involuntary treatment, a copy of the appropriate court order

Signed consent not required if employed by agency/institution per 681.35(d)
- (b) In the absence of applicable state and federal laws, rules or regulations, records held by a licensee must be kept for a minimum of seven (7) years from the date of termination of services with the client, or five (5) years after the client reaches the age of majority, whichever is greater.

Clarify/simplify - Age 23



681.71 – GENERAL APPLICATION PROCEDURE

- Need to add the requirement to submit a report from the National Practitioner Data Bank

681.92 – EXPERIENCE REQUIREMENTS

- (a) All applicants for LPC licensure must complete supervised experience acceptable to the Council of 3,000 clock-hours under a Council-approved supervisor.

Clarify “approved” means holds supervisory status

681.93 – SUPERVISOR REQUIREMENTS

- (g) A supervisor whose license has expired is no longer an approved supervisor and:
 - (1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates in finding alternate supervisors; and
 - (2) must refund all supervisory fees for supervision after the expiration of the supervisor status.
 - (3) Hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.
- (h) Upon execution of a Council order for probated suspension, suspension, or revocation of the LPC license with supervisor status, the supervisor status is revoked. A licensee whose supervisor status is revoked:
 - (1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates in finding alternate supervisors; and
 - (2) must refund all supervisory fees for supervision after the date the supervisor status is revoked; and
 - (3) hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.

Clarify language related to dates supervision is revoked

PROVISIONS NEEDING BOARD CONSIDERATION



FUTURE CONSIDERATION

- 681.2 – Definitions
 - (3) – Should Art therapy be moved to be included as a counseling method under 681.31?
 - (5) Client – should be anyone receiving services, not dependent on a request
 - (9) – Could more examples be given of “counseling-related” fields
 - (11) – Could more specificity or reference to other rules clarify “direct client contact”?
- 681.35 – Informed Consent
 - (a)(6) – Is it necessary to include a supervisor’s address?
 - (c) – What is a licensee’s duty to review and understand a custody agreement?
- 681.38 – Conflicts, Boundaries, Dual Relationships, and Termination of Relationships
 - What are the necessary limits of relationships with former clients and relatives?
 - w/ 681.42 Sexual Misconduct
- 681.46 – Licensees and the Council
 - What is the scope of violations a licensee has the duty to report?
- 681.72 – Required Application Materials
 - Should licensees be required to practice 5 years before being eligible to supervise?
 - Should the supervisor course 2-year expiration be removed?
 - w/ 681.147 40-Clock-Hour Supervision Training Course

FUTURE CONSIDERATION

- 681.83 – Academic Course Content
 - Review to confirm desired content
- 681.91 – LPC Associate License
 - Should Associates be required to submit a new supervisor agreement form if supervisors change?
- 681.92 – Experience Requirements
 - What is the necessary minimum time period for supervised experience?
 - Should Associates receive 4 hours of supervision per month total or per supervisor?
- 681.93 – Supervisor Requirements
 - What is the extent of a supervisor's duty over a supervisee's conduct?
 - What level of supervision notes and other records must be kept?
- 681.140 – Requirements for Continuing Education
 - Review to confirm desired requirements
- 681.205 – Schedule of Sanctions
 - Review to confirm desired penalty levels