

Rulemaking Hearing Rules

Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists

Chapter 0450-01 General Rules Governing Professional Counselors

Chapter 0450-02 General Rules Governing Marital and Family Therapists

Chapter 0450-03 General Rules Governing Clinical Pastoral Therapists

Amendments

Rule 0450-01-.01, Definitions, is amended by inserting the following language as new paragraph (10) and renumbering the existing paragraphs accordingly, and is further amended by deleting newly renumbered paragraph (11) in its entirety and substituting instead the following language, so that as amended, the new paragraph (10) and the newly renumbered paragraph (11) shall read:

- (10) Clinically-related activities - Clinically-related workshops, trainings and seminars, treatment teams, clinical supervision, and research and leadership preparation for individual and group counseling. Graduate coursework in pursuit of licensure and administrative supervision in the work setting are not clinically-related activities.
- (11) Clinical setting - A setting that applies the principles, methods, and therapeutic techniques practiced by professional counselors including diagnosis, appraisal, assessment, treatment and treatment planning of a broad spectrum of client problems including, but not limited to, developmental, mental, emotional, family, and DSM disorders. A clinical setting is that which ensures adequate supervision by no fewer than two (2) licensed mental health professionals, as listed in Rule 0450-01-.05 (5) (b) 1, and shall provide adequate supervision and training experiences with the physical resources necessary to allow for supervision and appropriate service delivery. A clinical setting shall include, but not be limited to, mental health or community agency settings pursuant to T.C.A. §§ 63-22-104 (3) (B). Clinical settings which are exclusively in a private practice and/or clinical settings which focus exclusively on only one (1) aspect of professional counseling (i.e. counseling of children) are not acceptable for meeting the supervision requirements of Rule 0450-01-.10.

Authority: T.C.A. §§ 63-22-102, 63-22-104, and 63-22-120.

Rule 0450-01-.03, Necessity of Certification or Licensure, is amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

- (6) Use of Titles -
 - (a) Any person who possesses a valid, unsuspended and unrevoked certificate issued by the Board has the right to use the title "Certified Professional Counselor" and to practice professional counseling, as defined in Rule 0450-01-.01.
 - (b) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the title "Licensed Professional Counselor" and to practice professional counseling, as defined in T.C.A. § 63-22-150.

- (c) Any person licensed by the Board to whom this rule applies must use the titles authorized by this rule whenever he or she is “advertising” [as that term is defined in rule 0450-01-.01 (2)] or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the professional counselor to disciplinary action pursuant to T.C.A. §§ 63-22-110 (b) (4) and 63-22-117 (a) (1).

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-22-102, 63-22-110, 63-22-117, and 63-22-150.

Rule 0450-01-.04, Qualifications for Licensure, is amended by deleting subparagraph (1) (d) and part (4) (a) 4. in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (d) and the new part (4) (a) 4. shall read:

- (1) (d) A minimum of two (2) years of supervised post master professional experience consisting of not less than ten (10) hours per week and fifty (50) contact hours of supervision per year as defined by Rule 0450-01-.10 (1).
- (4) (a) 4 Meet the following requirements for post-masters professional experience:
 - (i) Until July 1, 2009, complete 1000 hours of post-masters professional experience, including 100 hours of supervised experience obtained pursuant to Rule 0450-01-.10 (5).
 - (ii) As of July 1, 2009, complete three thousand (3000) hours of supervised post-masters professional experience, including one hundred and fifty (150) contact hours of supervision obtained pursuant to Rule 0450-01-.10 (5).
 - (I) One thousand and five hundred (1500) of the three thousand (3000) hours of supervised post-masters professional experience shall be face-to-face client contact hours.
 - (II) One thousand and five hundred (1500) of the three thousand (3000) hours of supervised post-masters professional experience shall be clinically-related activities;

Authority: T.C.A. §§ 63-22-102, 63-22-104, and 63-22-120.

Rule 0450-01-.05, Procedures for Licensure, is amended by deleting subparagraph (1) (k) and part (2) (e) 3. in their entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (k) and the new part (2) (e) 3. shall read:

- (1) (k) An applicant shall submit evidence of a minimum of two (2) years supervised post-master’s experience under the direction of an approved supervisor, pursuant to rule 0450-01-.10.
- (2) (e) 3. Providing verification to the Board’s satisfaction, that he has had five (5) years professional experience as a certified professional counselor.

Authority: T.C.A. §§ 63-22-102, and 63-22-104.

Rule 0450-01-.10, Supervision – Post Masters, is amended by deleting paragraph (5) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (5) (a) in its entirety and substituting instead the following language, and is further amended by adding new subparagraph (5) (b) and renumbering the existing paragraphs

accordingly, so that as amended, the new paragraph (5) but not its subparagraphs and the new subparagraph (5) (a) and 5 (b) shall read:

- (5) For the purpose of mental health service provider designation pursuant to T.C.A. § 63-22-150 and until July 1, 2009, 100 contact hours of post-masters supervised experience, of which no more than 40 hours may be in a group setting, is required for licensure as a professional counselor with mental health service provider designation. As of July 1, 2009 and for the purpose of mental health service provider designation pursuant to T.C.A. § 63-22-150, one hundred and fifty (150) contact hours of supervision, of which no more than fifty (50) hours may be in a group setting, is required for licensure as a professional counselor with mental health service provider designation.
- (5) (a) Until July 1, 2009, the post-masters supervised experience must consist of a minimum of 1000 hours of direct clinical experience which is completed under supervision and which is completed no sooner than two (2) years nor more than four (4) years following the beginning of supervised clinical practice.
- (5) (b) As of July 1, 2009, the post-masters supervised experience must consist of a minimum of three thousand (3000) hours of direct clinical experience which is completed under supervision and which is completed no sooner than two (2) years nor more than four (4) years following the beginning of supervised clinical practice. A clinical setting for the post-masters supervised experience which is exclusively in a private practice and/or which focuses exclusively on only one (1) aspect of professional counseling (i.e. counseling of children) is not acceptable for meeting the requirements of this rule.
 - 1. One thousand and five hundred (1500) of the three thousand (3000) hours of supervised post-masters professional experience shall be face-to-face client contact hours.
 - 2. One thousand and five hundred (1500) of the three thousand (3000) hours of supervised post-masters professional experience shall be clinically-related activities.

Authority: T.C.A. §§ 63-22-102, 63-22-104, and 63-22-120.

Rule 0450-01-.12, Continuing Education, is amended by inserting the following language as new paragraph (7) and renumbering the existing paragraph (7) as paragraph (8):

- (7) Waiver or Extension of Continuing Education Requirements.
 - (a) The Board may grant a waiver of the need to attend and complete the required clock hours of continuing education or the Board may grant an extension of the deadline to complete the required clock hours of continuing education if it can be shown that compliance is beyond the physical or mental capabilities of the person seeking the waiver.
 - (b) Waivers or extension of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board's Administrative Office prior to the expiration of the calendar year (December 31) in which the continuing education is due:
 - 1. A written request for a waiver or deadline extension which specifies which requirements are sought to be waived or which deadline is sought to be extended, and a written and signed explanation of the reason for the request; and

2. Any documentation which supports the reason(s) for the waiver or deadline extension requested or which is subsequently requested by the Board.

- (c) A waiver or deadline extension approved by the Board is effective only for the calendar year for which either is sought.

Authority: T.C.A. §§ 63-22-102, and 63-22-108.

Rule 0450-01-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) shall read:

- (1) (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
 1. During any period of probation, suspension; or
 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
 4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-22-102, 63-22-110, and 63-22-111.

Rule 0450-02-.03, Necessity of Certification or Licensure, is amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

- (6) Use of Titles -
 - (a) Any person who possesses a valid, unsuspended and unrevoked certificate issued by the Board has the right to use the title "Certified Marital and Family Therapist" and to practice marital and family therapy, as defined in Rule 0450-02-.01.
 - (b) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the title "Licensed Marital and Family Therapist" and to practice marital and family therapy, as defined in T.C.A. § 63-22-115.
 - (c) Any person licensed by the Board to whom this rule applies must use the titles authorized by this rule whenever he or she is "advertising" [as that term is defined in rule 0450-02-.01 (2)] or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the marital and family therapist to disciplinary action pursuant to T.C.A. §§ 63-22-110 (b) (4) and 63-22-115 (b).

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-22-102, 63-22-110, and 63-22-115.

Rule 0450-02-.12, Continuing Education, is amended by inserting the following language as new paragraph (7) and renumbering the existing paragraph (7) as paragraph (8):

- (7) Waiver or Extension of Continuing Education Requirements.

- (a) The Board may grant a waiver of the need to attend and complete the required clock hours of continuing education or the Board may grant an extension of the deadline to complete the required clock hours of continuing education if it can be shown that compliance is beyond the physical or mental capabilities of the person seeking the waiver.
- (b) Waivers or extension of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board's Administrative Office prior to the expiration of the calendar year (December 31) in which the continuing education is due:
 - 1. A written request for a waiver or deadline extension which specifies which requirements are sought to be waived or which deadline is sought to be extended, and a written and signed explanation of the reason for the request; and
 - 2. Any documentation which supports the reason(s) for the waiver or deadline extension requested or which is subsequently requested by the Board.
- (c) A waiver or deadline extension approved by the Board is effective only for the calendar year for which either is sought.

Authority: T.C.A. §§ 63-22-102, and 63-22-108.

Rule 0450-02-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) shall read:

- (1) (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
 - 1. During any period of probation, suspension; or
 - 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or
 - 3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
 - 4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-22-102, 63-22-110, and 63-22-111.

Rule 0450-03-.03, Necessity of Licensure, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Use of Titles
 - (a) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the title "Licensed Clinical Pastoral Therapists" and to practice clinical pastoral therapy, as defined in T.C.A. § 63-22-201.

- (b) Violation of this rule or T.C.A. § 63-22-201 regarding use of titles shall constitute unprofessional and/or unethical conduct and subject the licensee to disciplinary action.
- (c) Any person licensed by the Board to whom this rule applies must use the title authorized by this rule whenever he or she is “advertising” [as that term is defined in rule 0450-03-.21 (2)] or the failure to do so will constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the clinical pastoral therapist to disciplinary action pursuant to T.C.A. §§ 63-22-110 (b) (4), and 63-22-202(a).

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-22-102, 63-22-110, 63-22-201, and 63-22-202.

Rule 0450-03-.12, Continuing Education, is amended by inserting the following language as new paragraph (7) and renumbering the existing paragraph (7) as paragraph (8):

- (7) Waiver or Extension of Continuing Education Requirements.
 - (a) The Board may grant a waiver of the need to attend and complete the required clock hours of continuing education or the Board may grant an extension of the deadline to complete the required clock hours of continuing education if it can be shown that compliance is beyond the physical or mental capabilities of the person seeking the waiver.
 - (b) Waivers or extension of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board’s Administrative Office prior to the expiration of the calendar year (December 31) in which the continuing education is due:
 - 1. A written request for a waiver or deadline extension which specifies which requirements are sought to be waived or which deadline is sought to be extended, and a written and signed explanation of the reason for the request; and
 - 2. Any documentation which supports the reason(s) for the waiver or deadline extension requested or which is subsequently requested by the Board.
 - (c) A waiver or deadline extension approved by the Board is effective only for the calendar year for which either is sought.

Authority: T.C.A. §§ 63-22-102, and 63-22-108.

Rule 0450-03-.15, Disciplinary Actions and Civil Penalties, is amended by deleting subparagraph (1) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (f) shall read:

- (1) (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:
 - 1. During any period of probation, suspension; or
 - 2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or

3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or
4. As a stand-alone requirement(s) in any disciplinary order.

Authority: T.C.A. §§ 63-22-102, 63-22-110, and 63-22-111.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 26th day of November, 2008, and will become effective on the 2nd day of February, 2009. (FS 11-48-08; DBID 3844)

Addendum

Economic Impact Statement

The proposed amendments to 0450-01, 2, 3-12, .15 have no economic impact on small businesses.

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Amendments to 0450-01-.04, .05, .10:

- (a) Professional counselors who intend to practice in Tennessee independently as sole proprietors or as independent contractors; and
- (b) Counseling services and other providers who intend to employ newly licensed professional counselors or who hire newly licensed professional counselors as independent contractors; and
- (c) Licensees who are being paid to supervise applicants for licensure as professional counselors.

Amendments to 0450-01, 2, 3-.03

Licensees who advertise.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

As of December 31, 2006, Tennessee had 1201 licensed or certified professional counselors, 311 licensed or certified marital and family therapists, and 36 licensed clinical pastoral therapists who were eligible for licensure or certification renewal.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The proposed amendments which have economic impact on small businesses have no increased or new reporting, recordkeeping and other administrative costs that are required for compliance. However, the length of time for which recordkeeping is required

of applicants for licensure as a professional counselor is increasing because of the proposed increase in licensure requirements.

(4) Statement of the probable effect on impacted small businesses and consumers:

Amendments to 0450-01-.04, .05, 10:

- (a) Professional counselors who intend to practice in Tennessee independently as sole proprietors or as independent contractors will most likely have to spend an additional year or more obtaining post-masters supervised experience before they can practice independently, and will incur more expenses for supervision services, and will be further restricted as to the clinical setting location for the post-masters supervised experience, and will not be able to concentrate on any particular counseling areas during the post-masters supervised experience; and
- (b) Counseling services and other providers may, in the short term, have fewer qualified applicants for employment as newly licensed professional counselors. However, the Board anticipates this adverse impact will diminish over time; and
- (c) Consumers will benefit from having more qualified and more experienced professional counselors.

Amendments to 0450-01, 2, 3-.03

- (a) Licensees who advertise may have to revise advertisements which have been previously developed and/or currently running; and
- (b) Consumers will benefit from accurate advertisements that are not misleading.

(5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

- (a) With regard to the proposed use of titles amendments, the Board does not believe there are less burdensome alternatives because the intent of T.C.A. § 63-1-145 (Public Chapter 467 of the Public Acts of 2005) requires the promulgation of this rule.
- (b) With regard to the other proposed amendments, it would be less burdensome to not promulgate these rule amendments, but that would be contrary to the Board's mission to safeguard the health, safety, and welfare of Tennesseans by requiring those who practice professional counseling, marital and family therapy, and clinical pastoral therapy within this state be qualified.

(6) Comparison of the proposed rule with any federal or state counterparts:

Federal The Board is not aware of any federal counterparts. Professional counselors and marital and family therapists are not licensed by the federal government.

State Except for the amendments which add restrictions to the clinical setting and to the post-masters supervised experience, the proposed rule amendments regarding supervision are similar to various amendments for several of the health-related licensing boards which, over the past several years, have often increased the amount of supervised experience required for licensure and the amount of experience a supervisor must have. The proposed rule amendments which add restrictions to the clinical setting and to the post-

masters supervised experience are somewhat unique to this board. However, it is noted that one cannot be licensed as a medical doctor if education and training have been exclusively in cardiology, psychiatry, or any other medical specialty. The proposed rule amendments regarding waiver of continuing education requirements and extension of continuing education deadlines are similar to current rules for several of the health-related licensing boards. The proposed rule amendments regarding use of titles will be promulgated at all of the health related licensing boards.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

It is not possible to exempt the impacted small businesses from all or any part of the requirements contained in the proposed rule because the impacted small businesses are the Board's licensees. If the Board's licensees were exempted, the rule would have no effect. With regard to the proposed amendments to increase licensure requirements for professional counselors, the Board is empowered by T.C.A. § 63-22-102 (4) to "establish by rule any additional qualifications of the applicants necessary for the practice of professional counseling as herein provided." With regard to the proposed "use of titles" amendments, T.C.A. § 63-1-145 requires the health-related licensing boards to promulgate rules to "regulate the nature, manner, content, and extent of advertising and the use of titles by practitioners of such healing arts who are under the jurisdiction of such boards, including advertising pertaining to board certification and specialty."