

Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

RULE TITLE OR SUBJECT:

- Chapter 1 Definitions [amended]
- Chapter 1-A Advisory Rulings [new]
- Chapter 2 Licensed Professional Counselors [amended]
- Chapter 3 Licensed Clinical Professional Counselors [amended]
- Chapter 4 Licensed Marriage and Family Therapists [amended]
- Chapter 5 Licensed Pastoral Counselors [amended]
- Chapter 5-A Registration Requirements [new]
- Chapter 6 Applications / Applicants Licensed in Another Jurisdiction [amended]
- Chapter 7 License Renewal; Inactive Status [repealed and replaced]
- Chapter 7-A Continuing Education [new]
- Chapter 8 Standards of Practice [repealed]
- Chapter 8-A Code of Ethics [new]
- Chapter 8-B Client Bill of Rights; Disclosure Statements [new]
- Chapter 9 Fees [repealed]
- Chapter 10 Enforcement and Disciplinary Procedures [repealed]

PROPOSED RULE NUMBER:

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE):

CONCISE SUMMARY (UNDERSTANDABLE BY AVERAGE CITIZEN):

The proposed rules: (a) prescribe a procedure for the issuance of advisory rulings; (b) define a scope of practice for the various license types issued by the board; (c) eliminate the end dates currently in effect for supplementing nonconforming graduate degrees with additional coursework; (d) allow the board to recognize lawfully completed supervised experience that is substantially equivalent to the supervised experience ordinarily earned under a conditional license; (e) require supervision to occur with substantial regularity throughout the supervised experience; (f) permit up to half the individual supervised experience required for licensure to take place via live audio conference or live videoconference; (g) permit the substitution of additional supervised experience for insufficient internship hours in certain cases; (h) recognize certain unaccredited programs of clinical pastoral education; (i) reinstate to the board's rules limited provisions relating to the scope of practice and obligations of registered counselors; (j) update descriptions of the board's application and renewal process to reflect current practice; (k) make peer consultation, formerly known as peer supervision, an optional as opposed to mandatory component of continuing education; (l) require four hours of continuing education in domestic violence, substance abuse or emotional trauma; (m) substantially revise the board's code of ethics in the areas of dual relationships, records and confidentiality; (n) define sexual activity; (o) re-formulate the circumstances in which sexual activity between a counselor and a client is prohibited; (p) prohibit sexual activity between a counselor and the spouse or partner of a client; (q) substantially revise the disclosure statements to be distributed by counselors to their clients; (r) incorporate the new temporary conditional licensed marriage and family therapist licensed created by PL 2009, c. 172; and (s) make many other changes to the board's rules. The board specifically requests comment on the proposal to require four hours of continuing education in domestic violence, substance abuse or emotional trauma.

The statement of economic impact on small business required by 5 MRSA §8052(5-A) may be obtained from the agency contact person.

THIS RULE WILL WILL NOT HAVE A FISCAL IMPACT ON MUNICIPALITIES.

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8); 5 MRSA §§8051, 9001(4)

PUBLIC HEARING):

(IF ANY, GIVE DATE, TIME, LOCATION)

August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

DEADLINE FOR COMMENTS: September 7, 2009

AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney

AGENCY NAME: Office of Licensing and Registration

ADDRESS: 35 State House Station

TELEPHONE: (207) 624-8615

EMAIL: jeffrey.m.frankel@maine.gov

PROPOSED RULE AVAILABLE ON LINE AT: www.maine.gov/professionallicensing

**Board of Counseling Professionals Licensure
Proposed Rules
July 28, 2009**

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02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 1 DEFINITIONS**

Summary: This chapter defines terms used in the board's rules.

1. Definitions

As used in the rules of the Board of Counseling Professionals Licensure, unless the context otherwise indicates, the following terms have the following meanings:

~~1. AAPC. "AAPC" means American Association of Pastoral Counselors.~~

1. ACPE. "ACPE" means Association for Clinical Pastoral Education.

2. Board. "Board" means the Board of Counseling Professionals Licensure.

3. AMFTRB. "AMFTRB" means Association of Marital and Family Therapy Regulatory Boards.

4. CACREP. "CACREP" means Council for Accreditation of Counseling and Related Educational Programs.

5. Client. "Client" means any person who is currently receiving counseling or has previously received counseling for any amount of time from a licensed or registered counselor. For purposes of the board's rules, "counseling" includes marital and family therapy services.

6. Clinical counseling experience [applicable to LCPCs, LMFTs and Pastoral Counselors]. "Clinical counseling experience" means the diagnosis and treatment of mental health disorders through the application of procedures of counseling on a full- or part-time basis in an appropriate professional environment including, but not limited to a hospital, mental health center, counselor education program, university counseling center or private practice of professional counseling. Clinical counseling experience also includes supervision of counseling and related learning and professional activities.

7. COAMFTE. "COAMFTE" means Commission on Accreditation for Marriage and Family Therapy Education.

8. Contact ~~clock~~-hours. For purposes of continuing education, "Contactcontact clock-hours" means the number of actual hours spent in direct participation between learner and instructor, supervisor or facilitator. Time devoted to preparation for activities, independent study, assignments and socializing is not included. For academic class work, one 50 minute class meeting three times per week or one 2½ hour class meeting once per week for 15 weeks equals 45 contact clock-hours.

~~Courses taken as audit require instructor's verification of satisfactory attendance and participation.~~

9. Continuing education. "Continuing education" means a planned learning educational experience directly related to the theory and practice of professional counseling that is designed to promote the development, ~~of~~ knowledge, ~~and~~ skills ~~and attitudes for the enhancement of counseling, thus improving care provided to the public in the profession.~~

~~10. Continuing education unit. "Continuing education unit" (CEU) means 10 contact clock hours of participation in an organized continuing education experience.~~

10. CORE. "CORE" means Council on Rehabilitation Education.

11. Counseling experience [applicable to licensed professional counselors]. "Counseling experience" means the application of procedures of counseling on a full- or part-time basis in an appropriate professional environment including, but not limited to a hospital, school, mental health center, counselor education program, university counseling center or private practice of professional counseling. Counseling experience also includes supervision of counseling and related learning and professional activities.

11-A. Counselor. "Counselor" means a person who holds a license or registration issued by the board, or a person who engages in activities for which a license is required by 32 MRSA §13851(4-A).

12. Direct clinical contact hours. "Direct clinical contact hours" means the specific amount of time spent in a clinical counseling capacity with clients doing individual, group, family or couples counseling.

12-A. Direct counseling. "Direct counseling" means the specific amount of time spent in a counseling capacity with clients doing individual, group, family or couples counseling.

13. Documented proof. "Documented proof" of an academic degree means an official college or university transcript documenting all coursework and training received by the applicant from the institution. If the transcript does not indicate the number of contact hours and hours of face-to-face supervision in an internship program, the institution must provide a letter documenting the number of hours earned by the applicant.

~~16. Good moral character. "Good moral character" means a high degree of personal and professional integrity as recognized by members of the profession and by members of the community.~~

14. Individual supervision. ~~Individual~~ Except as otherwise permitted by the board's rules, "individual supervision" means supervision in which the approved

supervisor is physically present with the supervisee on a one-to-one basis and either discussing or observing the supervisee's practice.

15. NBCC. "NBCC" means National Board for Certified Counselors.

15-A. Peer Consultation. "Peer consultation" means the voluntary relationship between professionals of relatively equal expertise or status, wherein the peer consultant offers his or her information or advice on an individual case or problem for use by the peer consultee as the consultee deems appropriate.

16. Quarter-hour equivalent. "Quarter-hour equivalent" means $\frac{2}{3}$ of a semester hour.

17. Regionally accredited. "Regionally accredited" means that the educational institution is accredited by a regional institutional accrediting agency recognized by the U.S. Department of Education.

18. Relevant professional and continuing education experience. "Relevant professional and continuing education experience" means a professional program, seminar, workshop or formal graduate course work in a nationally or regionally accredited institution consisting of at least one contact clock hour which provides specific knowledge, skills and abilities in the professional field of counseling. These may be offered at a professional convention, conference, workshop or as an independent program for a fee or free.

19. Sexual activity. ~~"Sexual activity" means to engage, attempt to engage, or offer to engage a client in sexual behavior, whether the client consents to such behavior or not, including kissing, sexual penetration, or the touching by either the counselor or the client of the other's breasts or genitals. Sexual activity also includes engaging a client in verbal or physical behavior which is sexually arousing or demeaning the conduct described in Section 1(19)(A) and (B) of this chapter, to wit:~~

A. Level 1 sexual activity consists of any conduct by a counselor that is overtly sexual or may be reasonably interpreted as overtly sexual, even when initiated or consented to by the client or other person described in Chapter 8-A, Section 4 of the board's rules, including but not limited to:

(1) Sexual intercourse or genital to genital contact;

(2) Oral to genital contact;

(3) Oral to anal contact or genital to anal contact;

(4) Kissing in a sexual manner (e.g., kissing on the lips);

- (5) Any touching of a body part for any purpose other than appropriate comfort, or where the client or other person has refused or has withdrawn consent; or
- (6) Performing or offering to perform any service, or providing or offering to provide any consideration, of any kind in exchange for sexual favors.

B. Level 2 sexual activity consists of words, gestures, expressions or behaviors by a counselor that are seductive, sexually suggestive, sexualized or sexually demeaning to a client or other person described in Chapter 8-A, Section 4 of the board's rules, including but not limited to:

- (1) Kissing;
- (2) Inappropriate comments about or to a client or other person, including but not limited to sexual comments about the body or underclothing of the client or other person;
- (3) Criticism of sexual orientation;
- (4) Comments about sexual performance when not clinically indicated;
- (5) Requests for details of sexual likes or dislikes when not clinically indicated;
- (6) Use of the counselor-client or other counseling relationship to solicit a date or initiate a romantic relationship; or
- (7) Initiation or participation by a counselor of conversation regarding the sexual problems, preferences or fantasies of the counselor or client or other person when not clinically indicated.

20. Supervision. "Supervision" means a continuous process performed by a supervisor who monitors the professional practices of a ~~conditional~~ licensee through regular, documented, face-to-face consultation and instruction for the purpose of evaluating and enhancing the function of the supervisee and monitoring the quality of professional services offered to clients.

21. Supervisor. "Supervisor" is a person who provides supervision and meets the qualifications set forth in the board's rules, not related to, living with, or having a personal relationship with a conditional licensee and who is also:

- ~~A. A licensed clinical professional counselor, licensed marriage and family therapist, licensed pastoral counselor, licensed master social~~

~~worker conditional (clinical), licensed clinical social worker, certified social worker independent practice, licensed psychologist or licensed psychiatrist not under suspension or probation who is approved to provide supervision to the conditional licensee through meeting one of the following additional criteria:~~

~~(1) Licensed practice for a minimum period of five years, including not more than two years of practice as an entry level conditional licensee.~~

~~(2) Certification by a national professional organization in training and/or supervision; or~~

~~[NOTE: For example, certification as an approved clinical supervisor by NBCC.]~~

~~(3) 30 contact clock hours of training in supervision; or~~

~~B. A licensed professional counselor not under suspension or probation who is approved to provide supervision to a licensed professional counselor conditional through meeting one of the additional criteria set forth in Section 1(23)(A) of this chapter.~~

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 1-A ADVISORY RULINGS**

Summary: This chapter provides for the discretionary issuance of advisory rulings by the board.

1. Request and Consideration

Upon written request of any interested person, the board may issue an advisory ruling pursuant to 5 M.R.S.A. §9001 with respect to the applicability of any statute or rule it administers. Requests for advisory rulings must set forth in detail all facts pertinent to the question. The board may decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling, or for any other reason the board deems proper.

2. Response

The board shall acknowledge receipt of a request for an advisory ruling within 15 days after receipt. The board shall respond to every written request for an advisory ruling within 90 days of its receipt of the request, indicating whether or not a ruling will be issued by the board.

STATUTORY AUTHORITY: 5 MRSA §§ 8051, 9001(4)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 2 LICENSED PROFESSIONAL COUNSELORS**

Summary: This chapter sets forth the educational qualifications, examination requirement and supervision hours necessary for licensure as a professional counselor.

1. Scope of Practice

A licensed professional counselor practices the principles and procedures of counseling, as defined in 32 MRSA §13851(8), to assist those served in achieving more effective personal, emotional, social, educational and vocational development and adjustment. A licensed professional counselor may not diagnose or treat mental health disorders.

2. Education**1. Qualifying Degree**

The applicant shall provide documented proof of a master's degree or a doctoral degree from a regionally accredited institution that consists of a minimum of 48 semester hours or quarter-hour equivalent and meets the criteria of paragraph A, B, C or D below:

- A. A counseling degree from a program that was accredited by CACREP at the time the degree was awarded (subject to the 48 semester hour minimum);
- B. A degree in rehabilitation counseling from a program that was accredited by CORE at the time the degree was awarded (subject to the 48 semester hour minimum);
- C. A counseling degree that consisted of a minimum of 48 semester hours or quarter-hour equivalent as an organized sequence of study that includes curricular experiences and demonstrated knowledge that substantially satisfies each of the 10 core areas of study described in subparagraphs (1) through (10) below:

[NOTE: Nontraditional or specialized counseling programs such as art therapy and dance movement therapy must also satisfy the 10 core areas of study.]

Except for internship, full core area credit will be recognized for a three semester hour course in the designated area. Except for practicum and internship, partial core area credit will be recognized for a course that contains components or significant

aspects of a core area, and core area requirements other than practicum and internship may be satisfied by academic work completed in one or more separate courses. In determining whether a course pertains to a core area, the board will consider the content of the course as set forth in course descriptions, catalogs, syllabi, lesson plans, assignment lists, reading lists, or other contemporaneous documents; completed coursework produced by the applicant; any reliable information furnished by the applicant, the instructor who taught the course, a member of the academic department which offered the course, or a senior administrative official of the institution; and the title of the course. No one course will be recognized as satisfying more than one area of study.

In evaluating the applicant's academic credentials, the board shall consider the unavailability of the foregoing materials due to passage of time. In the event of a denial hearing, the board shall give due regard to the credibility of the applicant in evaluating any testimony of the applicant relating to course content, provided that the applicant has first demonstrated to the board a good faith effort to obtain the documentation described in the preceding paragraph.

- (1) Human Growth and Development. Studies that provide an understanding of the nature and needs of individuals at different developmental levels throughout the life span.
- (2) Social and Cultural Foundations. Studies that provide an understanding of societal changes and trends, human roles, social mores and interaction patterns, and differing life styles.
- (3) Helping Relationships. Studies that provide an understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced counseling skills, consultation theories and skills, self-understanding and self-development, and facilitation of client or consultee change.
- (4) Groups. Studies that provide an understanding of group development, dynamics, group counseling theories, group leadership styles, and group counseling methods and skills.
- (5) Lifestyle and Career Development. Studies that provide an understanding of career development theories, occupational and educational information services, career counseling, and career decision-making.

- (6) Measurement. Studies that provide an understanding of group and individual educational and psychometric theories and approaches to measurement, data and information-gathering methods, validity, reliability, psychometric statistics, factors influencing measurements, and use of measurement results in the helping process.
- (7) Research and Evaluation. Studies that provide an understanding of the types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, and ethical and legal considerations associated with research and evaluation.
- (8) Professional Orientation. Studies that provide an understanding of professional roles and functions, professional organizations and associations, history and trends within the profession, ethical and legal standards, and professional preparation standards and professional credentialing.
- (9) Practicum. A course of instruction that provides practical experience in counseling for the purpose of developing individual and group counseling skills. These studies include some counseling activities that a regularly employed licensed professional counselor would be expected to perform.
- (10) Internship. A supervised counseling experience of at least 600 clock hours. The internship provides an opportunity for the student to perform all the activities that a regularly employed licensed professional counselor would be expected to perform.

Alternative Experience. In lieu of the practicum and internship described in subparagraphs (9) and (10) above, an applicant may provide documentation of 700 hours of lawfully obtained supervised counseling experience. At least 280 hours must consist of direct client contact hours. Documentation must include supervisor affidavits and a copy of the applicant's final evaluation.

- D. A psychology degree from a program that at the time the degree was awarded was accredited by the American Psychological Association or Canadian Psychological Association in clinical psychology or counseling psychology at the doctoral level.

2. Nonconforming Counseling Degree

~~Until January 1, 2009, an~~An applicant without a qualifying degree as described in Section ~~12~~(1) of this chapter may meet the educational requirement for licensure by providing documented proof of:

- A. A master's degree in counseling from a regionally accredited institution that was awarded on the basis of at least 36 but less than 48 semester hours of study; and
- B. Supplemental graduate level coursework in a counseling program at a regionally accredited institution sufficient in amount to equal or exceed 48 semester hours overall, provided that the master's degree and supplemental coursework include curricular experiences and demonstrated knowledge that substantially satisfy each of the 10 core areas of study described in Section 2(1)(C)(1) through (10) of this chapter. The supplemental coursework must relate to areas of study set forth in Section 1(1)(C) of this chapter and must represent, to the greatest extent practicable, subject matter not included or not strongly represented in the applicant's previous academic preparation.

~~An application for licensure under this subsection must include a certification from the institution where the applicant completed the supplemental graduate level coursework stating that the supplemental coursework, on the basis of the academic transcripts and other information furnished by the applicant, represents to the greatest extent practicable subject matter not included or not strongly represented in the applicant's previous academic preparation.~~

[NOTE: The board strongly recommends that prospective applicants ~~discuss the certification requirement~~review the educational requirements of this chapter with their academic advisor *before* taking ~~the~~ supplemental graduate level coursework ~~described above.~~]

~~After January 1, 2009, an~~An applicant applying under Section ~~12~~(1)(C) of this chapter who completed 48 semester hours or quarter-hour equivalent, but whose curricular experiences and demonstrated knowledge do not substantially satisfy the required areas of study, may meet the educational requirement for licensure by completing such supplemental graduate level coursework as the board deems necessary to satisfy the deficiencies found.

~~2. Sunset for Licensure Via Nonconforming Degree~~

~~No applicant may apply for licensure on the basis of a nonconforming degree pursuant to Section 1(2)(A) and (B) of this chapter after January 1, 2009.~~

3. Examination

To qualify for either conditional or full licensure, the applicant shall achieve a passing score on the National Counselor Examination administered by the NBCC. ~~An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.~~

4. Supervised Experience

The applicant shall complete 2000 hours of supervised counseling experience over a period of not less than 2 years following attainment of the qualifying degree. The 2000 hours shall include a minimum of 1000 hours of direct counseling with individuals, couples, families or groups, and a minimum of 67 hours of supervision with the approved supervisor designated by the licensee. Supervision shall occur with substantial regularity throughout this period at the approximate rate of one hour of supervision per 30 hours of experience. Of the minimum 67 hours of supervision, at least 34 hours shall consist of individual supervision. The approved supervisor may participate by live audio conference or live videoconference in lieu of physical presence in up to 17 hours of individual supervision. Unless waived pursuant to Section 5(4) of this chapter, supervised experience must be earned during the applicant's period of conditional licensure.

All supervision required by this chapter must be provided by a supervisor approved by the board who is not related to, living with, or having a personal relationship with the supervisee and who meets the qualifications set forth in subsection 1 or 2 below:

1. The supervisor is a licensed clinical professional counselor, licensed marriage and family therapist, licensed pastoral counselor, licensed clinical social worker, certified social worker-independent practice, licensed psychologist or licensed psychiatrist not under suspension or probation who meets one of the following additional criteria:
 - A. Licensed practice for a minimum period of five years, including not more than two years of practice as an entry-level conditional licensee;
 - B. Certification by a national professional organization in training or supervision; or

[NOTE: For example, certification as an approved clinical supervisor by NBCC.]
 - C. Thirty contact hours of training in supervision and a minimum of one year of licensed practice at a licensure level higher than entry-level conditional; or

2. A licensed professional counselor not under suspension or probation who meets one of the criteria set forth in Section 4(1)(A), (B) or (C) of this chapter.

[TRANSITION NOTE: A supervisor who does not meet the qualifications for supervisor set forth in this Section may continue to supervise only the specific individuals for whom the supervisor was responsible on the effective date of the rules adopted on [insert date of adoption].

5. Conditional Licensure

1. Application

The application shall include:

- A. ~~Documented proof~~Proof of ~~completed the~~ education required by Section 2 of this chapter;
- B. Proof of a passing score on the National Counselor Examination, or a request to take the examination;
- C. A plan for supervision by an approved supervisor . The plan must meet the requirements ~~of for supervised experience contained in~~ Section ~~3(2)4~~ of this chapter and shall be submitted on a form ~~supplied provided~~ by the board;
- D. A proposed disclosure statement that meets the requirements of Chapter ~~88-B~~, Section ~~42(2) of the board's rules~~;
- E. The fee prescribed by Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;"
- F. Three letters of reference on a form provided by the board to be completed by professionals in the counseling field. The letters must be dated within one year prior to the date of the application;
- G. License verifications from all jurisdictions in which the applicant was ever licensed as a mental health professional; and
- H. Such other information as the board may require.

~~2. Supervision and Experience~~

~~The conditional licensee shall complete 2000 hours of supervised counseling experience as a conditional licensee over a period of not less than 2 years following attainment of the qualifying degree. Supervision shall be continuous throughout this period. The 2000 hours shall include a~~

~~minimum of 1000 hours of direct counseling with individuals, couples, families or groups, and a minimum of 67 hours of supervision with the approved supervisor designated by the licensee. Of the minimum 67 hours of supervision, at least 34 hours shall consist of individual supervision.~~

2. Administrative Responsibilities and Practice Limitations
 - A. Both the conditional licensee and the supervisor shall maintain ongoing records of supervision and shall produce the records for inspection and copying upon request of the board.
 - B. A conditional licensee may not change supervisors without prior ~~to receipt of written~~ approval from the board. The ~~request licensee~~ must explain submit a written request explaining the reason for the proposed change ~~and~~. The request must be accompanied by the termination/evaluation report described in Section ~~35(32)~~(C) of this chapter and a substitute supervision plan submitted on a form supplied by the board.
 - C. The supervisor shall submit a termination/evaluation report to the board:
 - (1) Upon a change of supervisor;
 - (2) Upon termination of the supervisory relationship prior to completion of the ~~supervision and supervised~~ experience set forth in Section ~~3(2)4~~ of this chapter; and
 - (3) Upon completion of the ~~supervision and supervised~~ experience set forth in Section ~~3(2)4~~ of this chapter.
 - D. A conditional licensee may not practice except under supervision as set forth in this section. A conditional licensee shall use the designation “conditional” in all documentation, correspondence and informational materials.

3. License Term

The conditional license is issued for a 2-year period. The license may be renewed for up to two additional 2-year periods (exclusive of any periods of inactive status) as necessary for the licensee to complete the supervised experience required by Section ~~3(2)4~~ of this chapter. The license will not be further renewed unless the licensee demonstrates to the satisfaction of the board that extenuating circumstances of genuine hardship prevented the licensee from completing the supervised experience within the 6-year period described in this subsection.

4. Waiver of Conditional Licensure

The board may waive conditional licensure in whole or in part and may recognize supervised experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 4 of this chapter.

6. Full Licensure

A conditional licensee or other qualified applicant may apply to the board for full licensure as a licensed professional counselor upon completion of the supervised experience required by Section ~~3(2)~~4 of this chapter or substantially similar supervised experience. The applicant shall submit:

1. Proof of the education required by Section 2 of this chapter, if not previously provided to the board;
2. Proof of a passing score on the National Counselor Examination, or a request to take the examination;
- ~~1.3.~~ Proof of successful completion of supervised experience on a form supplied by the board;
- ~~2.4.~~ Certification of completion of 55 hours of continuing professional education during the term of the conditional license in accordance with Chapter ~~87-A, Section 4~~ of the board's rules, unless conditional licensure was waived by the board pursuant to Section 5(4) of this chapter or is not required;
- ~~3.5.~~ The applicant's ~~A~~ proposed disclosure statement, ~~as described in that meets the requirements of~~ Chapter 8-B, Section ~~1-2(2)~~ of the board's rules;
- ~~4.6.~~ The fee prescribed in Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;" and
- ~~5.7.~~ Such other information as the board may require.

[NOTE: To avoid a gap in licensure, the board encourages conditional licensees to promptly apply for full licensure upon completion of their supervised experience.]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 3 LICENSED CLINICAL PROFESSIONAL COUNSELORS**

Summary: This chapter sets forth the educational qualifications, examination requirement and supervision hours necessary for licensure as a clinical professional counselor.

1. Scope of Practice

A licensed clinical professional counselor practices the principles and procedures of counseling, as defined in 32 MRSA §13851(8), to assess and treat intrapersonal and interpersonal problems and other dysfunctional behaviors and to assist in the overall development and adjustment of those served. A licensed clinical professional counselor may both diagnose and treat mental health disorders.

2. Education**1. Qualifying Degree**

The applicant shall provide documented proof of a master's degree or a doctoral degree from a regionally accredited institution that consists of a minimum of 60 graduate semester hours or quarter-hour equivalent and meets the criteria of paragraph A, B or C below:

- A. A counseling degree from a program that was accredited by CACREP as a mental health counseling program at the time the degree was awarded (subject to the 60 semester hour minimum);
- B. A counseling degree from a program that consisted of a minimum of 60 semester hours or quarter-hour equivalent as an organized sequence of study that includes curricular experiences and demonstrated knowledge that substantially satisfies each of the 10 core areas of study described in subparagraphs (1) through (10) below and 9 semester hours from at least two additional areas of study ~~chosen from those~~ described in subparagraphs (11) through (18) below;

[NOTE: Nontraditional or specialized counseling programs such as art therapy and dance movement therapy must also satisfy the 10 core areas and two additional areas of study.]

Except for internship, full area credit will be recognized for a three semester hour course in the designated area or the number of semester hours specified, as the case may be. Except for practicum and internship, partial area credit will be recognized for a course that contains components or significant aspects of an area, and area

requirements other than practicum and internship may be satisfied by academic work completed in one or more separate courses. In determining whether a course pertains to an area, the board will consider the content of the course as set forth in course descriptions, catalogs, syllabi, lesson plans, assignment lists, reading lists, or other contemporaneous documents; completed coursework produced by the applicant; any reliable information furnished by the applicant, the instructor who taught the course, a member of the academic department which offered the course, or a senior administrative official of the institution; and the title of the course. No one course will be recognized as satisfying more than one area of study.

In evaluating the applicant's academic credentials, the board shall consider the unavailability of the foregoing materials due to passage of time. In the event of a denial hearing, the board shall give due regard to the credibility of the applicant in evaluating any testimony of the applicant relating to course content, provided that the applicant has first demonstrated to the board a good faith effort to obtain the documentation described in the preceding paragraph.

- (1) Human Growth and Development. Studies that provide an understanding of the nature and needs of individuals at different developmental levels throughout the life span.
- (2) Helping Relationships. Studies that provide an understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced counseling skills, consultation theories and skills, self-understanding and self-development, and facilitation of client or consultee change.
- (3) Groups. Studies that provide an understanding of group development, dynamics, group counseling theories, group leadership styles, and group counseling methods and skills.
- (4) Measurement. Studies that provide an understanding of group and individual educational and psychometric theories and approaches to measurement, data and information-gathering methods, validity, reliability, psychometric statistics, factors influencing measurements, and use of measurement results in the helping process.
- (5) Research and Evaluation. Studies that provide an understanding of the types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, and ethical and

legal considerations associated with research and evaluation.

- (6) **Diagnosis and Treatment.** Studies that provide an understanding of psychopathology, the diagnosis and statistical manual and its use in counseling, psychopathology, the development of treatment plans and the use of related services, and the role of assessment, intake interviews, and reports.
- (7) **Professional Orientation.** Studies that provide an understanding of professional roles and functions, professional organizations and associations, history and trends within the profession, ethical and legal standards, and professional preparation standards and professional credentialing.
- (8) **Social and Cultural Foundations.** Studies that provide an understanding of the development of multicultural awareness, cultural foundations of human growth and development, and cultural values and traditions covering the life span.
- (9) **Practicum.** A course of clinical instruction that provides practical experience in counseling for the purpose of developing individual and group counseling skills. These experiences allow students to perform, on a limited basis, some of the counseling activities that a regularly employed licensed clinical professional counselor would be expected to perform.
- (10) **Internship.** A full academic year of supervised clinical counseling experience consisting of at least 900 clock hours, including a minimum of 360 clock hours of direct client contact. The internship provides an opportunity for the student to perform all the activities that a regularly employed licensed clinical professional counselor would be expected to perform.

Alternative Experience. In lieu of subparagraphs (9) and 10) above, an applicant may provide documentation of 1,000 hours of lawfully obtained supervised clinical counseling. At least 400 hours must consist of direct clinical contact hours. Documentation must include supervisor affidavits and a copy of the applicant's final evaluation.

Additional course work must include at least nine semester hours of study in the following:

- (11) Lifestyle and Career Development. Studies that provide an understanding of career development theories, occupational and educational information services, career counseling, and career decision-making.
- (12) Marriage and Family Counseling. Up to six semester hours of study that provide an understanding of the structure and dynamics of the family, and methods of marital and family intervention and counseling.
- (13) Human Sexuality for Counselors. Studies that provide an understanding of human sexual function and dysfunction, the relationship between sexuality, self-esteem, sex roles and life styles over the life cycle, and counseling treatment approaches and techniques.
- (14) Supervision. Studies that provide an understanding of approaches and conceptual models, individual and group supervision, clinical evaluation, and ethical and legal considerations.
- (15) Consultation. Studies that provide an understanding of consultation skills, evaluation of organizational structure and individual client management, and theoretical orientation.
- (16) Crisis Intervention. Studies that provide an understanding of the theory and practice of crisis intervention, short-term crisis counseling strategies, and the responsibilities of all those involved in the intervention.
- (17) Addictive Disorders. Up to six semester hours of study that provide an understanding of the stages, processes, and effects of addictions, social and psychological dynamics of chemical dependency, and the professional's role in prevention, intervention, and aftercare.
- (18) Treatment Modalities. Up to six semester hours of studies that provide an understanding of specific treatment approaches (for example, cognitive, client-centered, expressive therapy, feminist).

An applicant who has not completed an internship that meets the requirements of subparagraph (10) above, but has completed an internship consisting of at least 600 clock

hours of supervised clinical counseling experience and has fulfilled all other requirements of Section 2(1)(B) of this chapter, will be deemed to have a qualifying degree for purposes of Section 2(1)(B) of this chapter. Such an applicant must complete additional supervised experience as set forth in Section 4(2) of this chapter.

- C. A psychology degree from a program that at the time the degree was awarded was accredited by the American Psychological Association or Canadian Psychological Association in clinical psychology or counseling psychology at the doctoral level.

2. Nonconforming Counseling Degree Until January 1, 2009

Until January 1, 2009, an applicant without a qualifying degree as described in Section ~~4~~2(1) of this chapter may meet the educational requirement for licensure by providing documented proof of:

- A. A master's degree from a mental health counseling program at a regionally-accredited institution that was awarded on the basis of at least 48 semester hours of study;

OR

- B. (1) A master's degree from a mental health counseling program at a regionally accredited institution that was awarded on the basis of at least 36 but less than 48 semester hours of study; and

(2) Supplemental graduate level coursework in a mental health counseling program at a regionally accredited institution sufficient in amount to equal or exceed 48 semester hours overall, provided that the master's degree and supplemental coursework include curricular experiences and demonstrated knowledge that substantially satisfies each of the 10 core areas of study described in Section 2(1)(B)(1) through (10) of this chapter and 9 semester hours from at least two additional areas of study described in Section 2(1)(B)(11) through (18) of this chapter.

3. Nonconforming Counseling Degree After January 1, 2009

~~From January 1, 2009 until January 1, 2011~~After January 1, 2009, an applicant without a qualifying degree as described in Section ~~4~~2(1) of this chapter may meet the educational requirement for licensure by providing documented proof of:

- ~~C.A.~~ A master's degree from a mental health counseling program at a regionally accredited institution that was awarded on the basis of at least 36 but less than 60 semester hours of study; and
- B. Supplemental graduate level coursework in a mental health counseling program at a regionally accredited institution sufficient in amount to equal or exceed 60 semester hours overall, provided that the master's degree and supplemental coursework include curricular experiences and demonstrated knowledge that substantially satisfy each of the 10 core areas of study described in Section 2(1)(B)(1) through (10) of this chapter and 9 semester hours from at least two additional areas of study chosen from those described in Section 2(1)(B)(11) through (18) of this chapter.

~~The supplemental graduate level coursework must relate to areas of study set forth in Section 1(1)(B) of this chapter and must represent, to the greatest extent practicable, subject matter not included or not strongly represented in the applicant's previous academic preparation.~~

~~An application for licensure under this subsection must include a certification from the institution where the applicant completed the supplemental graduate level coursework stating that the supplemental coursework, on the basis of the academic transcripts and other information furnished by the applicant, represents to the greatest extent practicable subject matter not included or not strongly represented in the applicant's previous academic preparation.~~

[NOTE: The board strongly recommends that prospective applicants ~~discuss the certification requirement~~review the educational requirements of this chapter with their academic advisor *before* taking ~~the~~ supplemental graduate level coursework ~~described above.~~]

~~After January 1, 2011, an~~An applicant applying under Section ~~1~~2(1)(B) of this chapter who completed 60 semester hours or quarter-hour equivalent, but whose curricular experiences and demonstrated knowledge do not substantially satisfy the required areas of study, may meet the educational requirement for licensure by completing such supplemental graduate level coursework as the board deems necessary to satisfy the deficiencies found.

~~2. Sunset for Licensure Via Nonconforming Degree~~

~~No applicant may apply for licensure on the basis of a nonconforming degree pursuant to Section 1(2)(A) and (B) of this chapter after January 1, 2009. No applicant may apply for licensure on the basis of a nonconforming degree pursuant to Section 1(2)(C) and (D) of this chapter after January 1, 2011.~~

3. Examinations

1. Nonclinical

To qualify for either conditional or full licensure, except as set forth in Chapter 6, Section 3(1) and (2) of the board's rules, the applicant shall achieve a passing score on the National Counselor Examination administered by the NBCC. ~~An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.~~

2. Clinical

~~[EFFECTIVE WITH RESPECT TO APPLICATIONS FOR FULL LICENSURE RECEIVED AFTER JANUARY 1, 2008]~~

To qualify for full licensure, the applicant shall achieve a passing score on the National Clinical Mental Health Counseling Examination administered by the NBCC. ~~An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.~~

4. Supervised Experience

1. Except as set forth in Section 4(2) of this chapter, the applicant shall complete 3000 hours of supervised clinical counseling experience over a period of not less than 2 years following attainment of the qualifying degree. The 3000 hours shall include a minimum of 1500 direct clinical contact hours with individuals and groups, and a minimum of 100 hours of clinical supervision with the approved supervisor designated by the licensee. Supervision shall occur with substantial regularity throughout this period at the approximate rate of one hour of supervision per 30 hours of experience. Of the minimum 100 hours of clinical supervision, at least 50 hours shall consist of individual supervision. The approved supervisor may participate by live audio conference or live videoconference in lieu of physical presence in up to 25 hours of individual supervision. Unless waived pursuant to Section 5(4) of this chapter, supervised experience must be earned during the applicant's period of conditional licensure.

2. An applicant whose qualifying degree did not include the internship described in Section 2(1)(B)(10) of this chapter, but did include an internship consisting of at least 600 clock hours of supervised clinical counseling experience, must complete supervised experience as set forth in this subsection.

The applicant shall complete 4000 hours of supervised clinical counseling experience over a period of not less than 2 years following attainment of the qualifying degree. The 4000 hours shall include a minimum of 2000 direct clinical contact hours with individuals and groups, and a minimum of 150 hours of clinical supervision with the approved supervisor

designated by the licensee. Supervision shall occur with substantial regularity throughout this period at the approximate rate of one hour of supervision per 27 hours of experience. Of the minimum 150 hours of clinical supervision, at least 75 hours shall consist of individual supervision. The approved supervisor may participate by live audio conference or live videoconference in lieu of physical presence in up to 38 hours of individual supervision. Unless waived pursuant to Section 5(4) of this chapter, supervised experience must be earned during the applicant's period of conditional licensure.

3. All supervision required by this chapter must be provided by a supervisor approved by the board who is not related to, living with, or having a personal relationship with the supervisee and who meets the qualifications set forth below:

The supervisor is a licensed clinical professional counselor, licensed marriage and family therapist, licensed pastoral counselor, licensed clinical social worker, certified social worker-independent practice, licensed psychologist or licensed psychiatrist not under suspension or probation who meets one of the following additional criteria:

- A. Licensed practice for a minimum period of five years, including not more than two years of practice as an entry-level conditional licensee;
- B. Certification by a national professional organization in training or supervision; or

[NOTE: For example, certification as an approved clinical supervisor by NBCC.]

- C. Thirty contact hours of training in supervision and a minimum of one year of licensed practice at a licensure level higher than entry-level conditional.

[TRANSITION NOTE: A supervisor who does not meet the qualifications for supervisor set forth in this subsection may continue to supervise only the specific individuals for whom the supervisor was responsible on the effective date of the rules adopted on [insert date of adoption].

5. Conditional Licensure

1. Application

The application shall include:

- A. ~~Documented proof~~Proof of ~~completed the~~ education required by Section 2 of this chapter;
- B. Proof of a passing score on the National Counselor Examination, or a request to take the examination;
- C. A plan for supervision by an approved supervisor. The plan must meet the requirements ~~of for supervised experience contained in~~ Section ~~3(2)4~~ of this chapter and shall be submitted on a form ~~supplied provided~~ by the board;
- D. A proposed disclosure statement that meets the requirements of Chapter 8-~~B~~, Section ~~4~~2(1) of the board's rules;
- E. The fee prescribed by Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;"
- F. Three letters of reference on a form provided by the board to be completed by professionals in the counseling field. The letters must be dated within one year prior to the date of the application;
- G. License verifications from all jurisdictions in which the applicant was ever licensed as a mental health professional; and
- H. Such other information as the board may require.

~~2. Supervision and Experience~~

~~The conditional licensee shall complete 3000 hours of supervised clinical counseling experience over a period of not less than 2 years as a conditional licensee following attainment of the qualifying degree. Supervision shall be continuous throughout this period. The 3000 hours shall include a minimum of 1500 direct clinical contact hours with individuals and groups, and a minimum of 100 hours of clinical supervision with the approved supervisor designated by the licensee. Of the minimum 100 hours of clinical supervision, at least 50 hours shall consist of individual supervision.~~

- 2. Administrative Responsibilities and Practice Limitations
 - A. Both the conditional licensee and the supervisor shall maintain ongoing records of supervision and shall produce the records for inspection and copying upon request of the board.
 - B. A conditional licensee may not change supervisors without prior to ~~receipt of written~~ approval from the board. The request licensee must ~~explain submit a written request explaining~~ the reason for the

proposed change ~~and~~. The request must be accompanied by the termination/evaluation report described in Section ~~35~~(32)(C) of this chapter and a substitute supervision plan submitted on a form supplied by the board.

- C. The supervisor shall submit a termination/evaluation report to the board:
- (1) Upon a change of supervisor;
 - (2) Upon termination of the supervisory relationship prior to completion of the ~~supervision and supervised~~ experience set forth in Section ~~3(2)4~~ of this chapter; and
 - (3) Upon completion of the ~~supervision and supervised~~ experience set forth in Section ~~3(2)4~~ of this chapter.
- D. A conditional licensee may not practice except under supervision as set forth in this section. A conditional licensee shall use the designation “conditional” in all documentation, correspondence and informational materials.

3. License Term

The conditional license is issued for a 2-year period. The license may be renewed for up to two additional 2-year periods (exclusive of any periods of inactive status) as necessary for the licensee to complete the supervised experience required by Section ~~3(2)4~~ of this chapter. The license will not be further renewed unless the licensee demonstrates to the satisfaction of the board that extenuating circumstances of genuine hardship prevented the licensee from completing the supervised experience within the 6-year period described in this subsection.

4. Waiver of Conditional Licensure

The board may waive conditional licensure in whole or in part and may recognize supervised clinical experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 4 of this chapter.

6. Full Licensure

A conditional licensee or other qualified applicant may apply to the board for full licensure as a licensed clinical professional counselor upon ~~achieving a passing score on the National Clinical Mental Health Counseling Examination [see note below]~~ and upon completion of the supervised experience required by Section ~~3(2)4~~ of this chapter or substantially similar supervised experience. The applicant shall submit:

1. ~~[EFFECTIVE WITH RESPECT TO APPLICATIONS FOR FULL LICENSURE RECEIVED AFTER JANUARY 1, 2008]~~ Proof of a passing score on the National Clinical Mental Health Counseling Examination, or a request to take the examination;
2. Proof of a passing score on the National Counselor Examination, if not previously provided to the board, except as set forth in Chapter 6, Section 3(1) and (2) of the board's rules;
3. Proof of the education required by Section 2 of this chapter, if not previously provided to the board;
- ~~2.4.~~ Proof of successful completion of supervised experience on a form supplied by the board;
- ~~3.5.~~ Certification of completion of 55 hours of continuing professional education during the term of the conditional license in accordance with Chapter ~~8,7-A~~ Section 4 of the board's rules, unless conditional licensure was waived by the board pursuant to Section 5(4) of this chapter or is not required;
- ~~4.6.~~ The applicant's ~~A~~ proposed disclosure statement, as described in that meets the requirements of Chapter 8-B, Section ~~1-2(1)~~ of the board's rules;
- ~~5.7.~~ The fee prescribed in Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;" and
- ~~6.8.~~ Such other information as the board may require.

[NOTE: To avoid a gap in licensure, the board encourages conditional licensees to promptly apply for full licensure upon completion of their supervised experience.]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 4 LICENSED MARRIAGE AND FAMILY THERAPISTS**

Summary: This chapter sets forth the educational qualifications, examination requirement and supervision hours necessary for licensure as a marriage and family therapist.

1. Scope of Practice

A licensed marriage and family therapist assesses and treats intrapersonal and interpersonal problems through the application of principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts, modifying perceptions and behavior, enhancing communication and understanding among all family members, and preventing family and individual crises. A licensed marriage and family therapist may both diagnose and treat mental health disorders.

2. Education**1. Qualifying Degree**

The applicant shall provide documented proof of a master's degree or a doctoral degree from a regionally accredited institution that consists of a minimum of 60 semester hours or quarter-hour equivalent and meets the criteria of paragraph A, B or C below:

- A. A counseling degree from a program that was accredited by CACREP as a marital, couple, and family counseling/therapy program at the time the degree was awarded (subject to the 60 semester hour minimum);
- B. A counseling degree from a marital, couple, and family counseling/therapy program that was accredited by COAMFTE at the time the degree was awarded at the doctoral level only, provided that the applicant can demonstrate completion of a clinical practicum as described in Section 1(1)(C)(7) of this chapter, and subject to the 60 semester hour minimum;
- C. A counseling degree from a marital, couple and family counseling/therapy program that consisted of a minimum of 60 semester hours or quarter-hour equivalent as an organized sequence of study that includes curricular experiences and demonstrated knowledge that substantially satisfies each of the nine areas of study described in subparagraphs (1) through (9) below;

Except for internship, full area credit will be recognized for a three semester hour course in the designated area or the number or semester hours specified, as the case may be. Except for practicum and internship, partial area credit will be recognized for a course that contains components or significant aspects of an area, and area requirements other than practicum and internship may be satisfied by academic work completed in one or more separate courses. In determining whether a course pertains to an area, the board will consider the content of the course as set forth in course descriptions, catalogs, syllabi, lesson plans, assignment lists, reading lists, or other contemporaneous documents; completed coursework produced by the applicant; any reliable information furnished by the applicant, the instructor who taught the course, a member of the academic department which offered the course, or a senior administrative official of the institution; and the title of the course. No one course will be recognized as satisfying more than one area of study.

In evaluating the applicant's academic credentials, the board shall consider the unavailability of the foregoing materials due to passage of time. In the event of a denial hearing, the board shall give due regard to the credibility of the applicant in evaluating any testimony of the applicant relating to course content, provided that the applicant has first demonstrated to the board a good faith effort to obtain the documentation described in the preceding paragraph.

- (1) Marital and Family Studies. Nine semester hours or quarter-hour equivalent in theories of family development, general systems theory, theories of family functioning, the family life cycle, sociology of the family, families under stress, contemporary family forms, family subsystems, family of origin and external societal influences, family pathology such as addiction, child abuse and sexual abuse, and other related topics. Three of the nine semester hours must be in general systems theory.
- (2) Marital and Family Therapy. Nine semester hours or quarter-hour equivalent in the study of major marital and family therapy treatment approaches and techniques to provide a substantive understanding of systems change. The course work may include strategic, structural, object relations, integrative, experiential, systems, neoanalytic, communications and behavioral treatment modalities.
- (3) Human Development. Six semester hours or quarter-hour equivalent in the study of human development across the life cycle, personality theory and cognitive development.

- (4) Human Sexuality. Studies that provide an understanding of human sexuality over the life cycle, sex roles, sexual function and dysfunction.
- (5) Diagnosis and Treatment. Studies that provide an understanding of psychopathology, the diagnosis and statistical manual and its use in counseling, psychopathology, the development of treatment plans and the use of related services, and the role of assessment, intake interviews, and reports.
- (6) Professional Orientation. Studies that provide an understanding of professional roles and functions, professional organizations and associations, history and trends within the profession, ethical and legal standards, and professional preparation standards and professional credentialing.
- (7) Research and Evaluation. Studies that provide an understanding of the types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, and ethical and legal considerations associated with research and evaluation.
- (8) Practicum. A course of clinical instruction that provides practical experience in counseling for the purpose of developing marriage and family counseling skills. These experiences allow students to perform, on a limited basis, some counseling activities that a regularly employed licensed marriage and family therapist would be expected to perform.
- (9) Internship. A full academic year of supervised marriage and family counseling experience consisting of at least 900 clock hours, including a minimum of 360 clock hours of direct client contact. The internship provides an opportunity for the student to perform all the activities that a regularly employed marriage and family therapist would be expected to perform.

Alternative Experience. In lieu of subparagraphs (8) and (9) above, an applicant may provide documentation of 1,000 hours of lawfully obtained supervised marriage and family therapy counseling. At least 400 hours must consist of direct clinical contact hours. Documentation must include supervisor affidavits and a copy of the applicant's final evaluation.

An applicant who has not completed an internship that meets the requirements of subparagraph (9) above but has completed an internship consisting of at least 600 clock hours of supervised marriage and family counseling experience and has fulfilled all other requirements of Section 2(1)(C) of this chapter will be deemed to have a qualifying degree for purposes of Section 2(1)(C) of this chapter. Such an applicant must complete additional supervised experience as set forth in Section 4(2) of this chapter.

2. Nonconforming Counseling Degree Until January 1, 2009

Until January 1, 2009, an applicant without a qualifying degree as described in Section ~~12~~(1) of this chapter may meet the educational requirement for licensure by providing documented proof of:

- A. A master's degree from a marital, couple, and family counseling/therapy program at a regionally accredited institution that was awarded on the basis of at least 48 semester hours of study;

OR

- B. (1) A master's degree from a marital, couple, and family counseling/therapy program at a regionally accredited institution that was awarded on the basis of at least 36 but less than 48 semester hours of study; and
- (2) Supplemental graduate level coursework in a marital, couple, and family counseling/therapy program or mental health counseling program at a regionally accredited institution sufficient in amount to equal or exceed 48 semester hours overall, provided that the master's degree and supplemental coursework include curricular experiences and demonstrated knowledge that substantially satisfy each of the nine areas of study described in Section 2(1)(C)(1) through (9) of this chapter.

3. Nonconforming Counseling Degree After January 1, 2009

~~From January 1, 2009 until January 1, 2011~~ After January 1, 2009, an applicant without a qualifying degree as described in Section ~~12~~(1) of this chapter may meet the educational requirement for licensure by providing documented proof of:

- ~~C.A.~~ A master's degree from a marital, couple, and family counseling/therapy program from a regionally accredited

institution that was awarded on the basis of at least 36 but less than 60 semester hours of study; and

- B. Supplemental graduate level coursework in a marital, couple, and family counseling/therapy program or mental health counseling program at a regionally accredited institution sufficient in amount to equal or exceed 60 semester hours overall provided that the master's degree and supplemental coursework include curricular experiences and demonstrated knowledge that substantially satisfy each of the nine areas of study described in Section 2(1)(C)(1) through (9) of this chapter.

~~The supplemental graduate level coursework must relate to areas of study set forth in Section 1(1)(C) of this chapter and must represent, to the greatest degree practicable, subject matter not included or not strongly represented in the applicant's previous academic preparation.~~

~~An application for licensure under this subsection must include a certification from the institution where the applicant completed the supplemental graduate level coursework stating that the supplemental coursework, on the basis of the academic transcripts and other information furnished by the applicant, represents to the greatest extent practicable subject matter not included or not strongly represented in the applicant's previous academic preparation.~~

[NOTE: The board strongly recommends that prospective applicants ~~discuss the certification requirement~~review the educational requirements of this chapter with their academic advisor *before* taking ~~the~~ supplemental graduate level coursework ~~described above.~~]

~~After January 1, 2011, an~~An applicant applying under Section ~~12~~12(1)(C) of this chapter who completed 60 semester hours or quarter-hour equivalent, but whose curricular experiences and demonstrated knowledge do not substantially satisfy the required areas of study, may meet the educational requirement for licensure by completing such supplemental graduate level coursework as the board deems necessary to satisfy the deficiencies found.

~~3. Sunset for Licensure Via Nonconforming Degree~~

~~No applicant may apply for licensure on the basis of a nonconforming degree pursuant to Section 1(2)(A) and (B) of this chapter after January 1, 2009. No applicant may apply for licensure on the basis of a nonconforming degree pursuant to Section 1(2)(C) and (D) of this chapter after January 1, 2011.~~

3. Examination

To qualify for either conditional or full licensure, the applicant shall achieve a passing score on the Marital and Family Therapy Examination administered by the AMFTRB. ~~An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.~~

4. Supervised Experience

1. Except as set forth in Section 4(2) of this chapter, the applicant shall complete 3000 hours of supervised clinical counseling experience in marriage and family counseling over a period of not less than 2 years following attainment of the qualifying degree. The 3000 hours shall include a minimum of 1000 hours of direct clinical contact hours with couples and families. The conditional licensee must receive a minimum of 200 hours of clinical supervision with the approved supervisor designated by the licensee. Supervision shall occur with substantial regularity throughout this period at the approximate rate of one hour of supervision per 15 hours of experience. Of the minimum 200 hours of clinical supervision, at least 100 hours shall consist of individual supervision. The approved supervisor may participate by live audio conference or live videoconference in lieu of physical presence in up to 50 hours of individual supervision. Unless waived pursuant to Section 4(4) of this chapter, supervised experience must be earned during the applicant's period of conditional licensure.

2. An applicant whose qualifying degree did not include the internship described in Section 2(1)(C)(9) of this chapter, but did include an internship consisting of at least 600 clock hours of supervised marriage and family counseling experience, must complete supervised experience as set forth in this subsection.

The applicant shall complete 4000 hours of supervised clinical counseling experience over a period of not less than 2 years following attainment of the qualifying degree. The 4000 hours shall include a minimum of 1500 hours of direct clinical contact hours with couples and families. The conditional licensee must receive a minimum of 300 hours of clinical supervision with the approved supervisor designated by the licensee. Supervision shall occur with substantial regularity throughout this period at the approximate rate of one hour of supervision per 13 hours of experience. Of the minimum 300 hours of clinical supervision, at least 150 hours shall consist of individual supervision. The approved supervisor may participate by live audio conference or live videoconference in lieu of physical presence in up to 75 hours of individual supervision. Unless waived pursuant to Section 5(4) of this chapter, supervised experience must be earned during the applicant's period of conditional licensure.

3. All supervision required by this chapter must be provided by a supervisor approved by the board who is not related to, living with, or having a personal relationship with the supervisee and who meets the qualifications set forth below:

The supervisor is a licensed clinical professional counselor, licensed marriage and family therapist, licensed pastoral counselor, licensed clinical social worker, certified social worker-independent practice, licensed psychologist or licensed psychiatrist not under suspension or probation who meets one of the following additional criteria:

- A. Licensed practice for a minimum period of five years, including not more than two years of practice as an entry-level conditional licensee;
- B. Certification by a national professional organization in training or supervision; or

[NOTE: For example, certification as an approved clinical supervisor by NBCC.]

- C. Thirty contact hours of training in supervision and a minimum of one year of licensed practice at a licensure level higher than entry-level conditional.

[TRANSITION NOTE: A supervisor who does not meet the qualifications for supervisor set forth in this subsection may continue to supervise only the specific individuals for whom the supervisor was responsible on the effective date of the rules adopted on [insert date of adoption].

5. Conditional Licensure

1. Application

The application shall include:

- A. ~~Documented proof~~Proof of ~~completed the~~ education required by Section 2 of this chapter;
- B. Proof of a passing score on the Marital and Family Therapy Examination, ~~or a request to take the examination;~~
- C. A plan for supervision by an approved supervisor . The plan must meet the ~~requirement~~requirements ~~of for supervised experience contained in~~ Section ~~3(2)4~~ of this chapter and shall be submitted on a form ~~supplied-provided~~ by the board;

- D. A proposed disclosure statement that meets the requirements of Chapter 8-B, Section ~~4~~2(1) of the board's rules;
- E. The fee prescribed by Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;"
- F. Three letters of reference on a form provided by the board to be completed by professionals in the counseling field. The letters must be dated within one year prior to the date of the application;
- G. License verifications from all jurisdictions in which the applicant was ever licensed as a mental health professional; and
- H. Such other information as the board may require.

2. Supervision and Experience

~~The conditional licensee shall complete 3000 hours of supervised clinical counseling experience in marriage and family counseling as a conditional licensee over a period of not less than 2 years following attainment of the qualifying degree. Supervision shall be continuous throughout this period. The 3000 hours shall include a minimum of 1000 hours of direct clinical contact hours with couples and families. The conditional licensee must receive a minimum of 200 hours of clinical supervision with the approved supervisor designated by the licensee. Of the minimum 200 hours of clinical supervision, at least 100 hours shall consist of individual supervision.~~

- 2. Administrative Responsibilities and Practice Limitations
 - A. Both the conditional licensee and the supervisor shall maintain ongoing records of supervision and shall produce the records for inspection and copying upon request of the board.
 - B. A conditional licensee may not change supervisors without prior ~~to~~ receipt of written approval from the board. The request licensee must explain submit a written request explaining the reason for the proposed change ~~and~~. The request must be accompanied by the termination/evaluation report described in Section ~~35~~(32)(C) of this chapter and a substitute supervision plan submitted on a form supplied by the board.
 - C. The supervisor shall submit a termination/evaluation report to the board:
 - (1) Upon a change of supervisor;

- (2) Upon termination of the supervisory relationship prior to completion of the ~~supervision and supervised~~ experience set forth in Section ~~3(2)4~~ of this chapter; and
 - (3) Upon completion of the ~~supervision and supervised~~ experience set forth in Section ~~3(2)4~~ of this chapter.
- D. A conditional licensee may not practice except under supervision as set forth in this section. A conditional licensee shall use the designation “conditional” in all documentation, correspondence and informational materials.
3. License Term

The conditional license is issued for a 2-year period. The license may be renewed for up to two additional 2-year periods (~~exclusive of any periods of inactive status~~) as necessary for the licensee to complete the supervised experience required by Section ~~3(2)4~~ of this chapter. The license will not be further renewed unless the licensee demonstrates to the satisfaction of the board that extenuating circumstances of genuine hardship prevented the licensee from completing the supervised experience within the 6-year period described in this subsection.

4. Waiver of Conditional Licensure

The board may waive conditional licensure in whole or in part and may recognize supervised clinical experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 4 of this chapter.

6. Temporary Conditional Licensure

1. Application

The application shall include:

- A. Proof of the education required by Section 2 of this chapter;
- B. A plan for supervision by an approved supervisor at an agency that provides mental health services. The plan must meet the requirements for supervised experience contained in Section 4 of this chapter and must be submitted on a form provided by the board;
- C. A proposed disclosure statement that meets the requirements of Chapter 8-B, Section 2(1) of the board’s rules;

- D. The fee for conditional licensure prescribed by Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees;”
- E. Three letters of reference on a form provided by the board to be completed by professionals in the counseling field. The letters must be dated within one year prior to the date of the application;
- F. License verifications from all jurisdictions in which the applicant was ever licensed as a mental health professional; and
- G. Such other information as the board may require.

2. Administrative Responsibilities and Practice Limitations

- A. The temporary conditional licensee must apply for and successfully pass the Marital and Family Therapy Examination during the term of the license. If the temporary conditional licensee fails the examination, the licensee is prohibited from using any clinical experience gained during the term of the license to qualify for full licensure;
- B. The temporary conditional licensee must be employed under clinical supervision at an agency that provides mental health services.
- C. A temporary conditional licensee shall use the designation “temporary conditional” in all documentation, correspondence and informational materials;
- D. Both the temporary conditional licensee and the supervisor shall maintain ongoing records of supervision and shall produce the records for inspection and copying upon request of the board.
- E. A temporary conditional licensee may not change supervisors without prior written approval from the board. The licensee must submit a written request explaining the reason for the proposed change. The request must be accompanied by the termination/evaluation report described in Section 6(2)(F) of this chapter and a substitute supervision plan submitted on a form supplied by the board.
- F. The supervisor shall submit a termination/evaluation report to the board upon a change of supervisor.

3. License Term

The temporary conditional license is issued for a term not to exceed 6 months and may not be renewed.

4. Transition to Conditional License

The temporary conditional licensee shall be issued a conditional license without further application or fee upon submitting proof of a passing score on the Marital and Family Therapy Examination obtained within the term of the temporary conditional license as described in Section 6(2)(A). The temporary conditional license shall thereupon terminate. Supervised experience commenced under the temporary conditional license must continue without interruption under the conditional license.

6.7. Full Licensure

A conditional licensee or other qualified applicant may apply to the board for full licensure as a licensed marriage and family therapist upon completion of the supervised experience required by Section ~~3(2)4~~ of this chapter or substantially similar supervised experience. The applicant shall submit:

1. Proof of the education required by Section 2 of this chapter, if not previously provided to the board;
2. Proof of a passing score on the Marital and Family Therapy Examination, or a request to take the examination;
- ~~(2)3.~~ Proof of successful completion of supervised experience on a form supplied by the board;
- ~~(2)4.~~ Certification of completion of 55 hours of continuing professional education during the term of the conditional license in accordance with Chapter ~~8,7-A~~ Section ~~4~~ of the board's rules, unless conditional licensure was waived by the board pursuant to Section 5(4) of this chapter or is not required;
- ~~(2)5.~~ The applicant's ~~A~~ proposed disclosure statement, ~~as described in that meets the requirements of~~ Chapter ~~8-B~~, Section ~~1-2(1)~~ of the board's rules;
- ~~(2)6.~~ The fee prescribed in Chapter 10, ~~Section 5(13)~~ of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;" and
- ~~(2)7.~~ Such other information as the board may require.

[NOTE: To avoid a gap in licensure, the board encourages conditional licensees to promptly apply for full licensure upon completion of their supervised experience.]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 5 LICENSED PASTORAL COUNSELORS**

Summary: This chapter sets forth the educational qualifications, examination requirement and supervision hours necessary for licensure as a pastoral counselor.

1. Scope of Practice

A licensed pastoral counselor provides ministry involving the application of principles and procedures of counseling, as defined in 32 MRSA §13851(8), to assess and treat intrapersonal and interpersonal problems and other dysfunctional behavior of a social and spiritual nature, and to assist in the overall healing process of those served. A licensed pastoral counselor may both diagnose and treat mental health disorders.

2. Call to Ministry

The call to ministry required for licensure by 32 MRSA §1358(3-A)(E) is shown by:

1. The applicant's membership in a denomination or local faith group that recognizes the applicant's status as a rabbi, priest, minister or religious advisor;
2. Evidence that he or she has been ordained or otherwise affirmed in accordance with the tenets of the applicant's denomination or faith group; and
3. A letter or certificate from an individual or group in authority within the denomination or faith group of which the applicant is a member endorsing the applicant's application for licensure as a pastoral counselor.

3. Education**1. Qualifying Degree**

The applicant shall provide documented proof of a master's degree or a doctoral degree from a regionally accredited institution that meets the core curriculum requirements of Section ~~23~~(2) of this chapter, and is a:

- Master of Divinity or Doctor of Divinity degree; or
- Master's or doctorate degree in pastoral counseling.

2. Core Curriculum Requirements

The degree program completed by the applicant pursuant to Section 23(1) of this chapter included a minimum of 20 semester hours or quarter-hour equivalent as an organized sequence of study that includes curricular experiences and demonstrated knowledge that substantially satisfies each of the areas of study described in paragraphs A through E below, plus the 400 hours of clinical pastoral education required by paragraph F.

Except for clinical pastoral education, full area credit will be recognized for a three semester hour course in the designated area. Except for clinical pastoral education, partial area credit will be recognized for a course that contains components or significant aspects of an area, and area requirements other than clinical pastoral education may be satisfied by academic work completed in one or more separate courses. In determining whether a course pertains to an area, the board will consider the content of the course as set forth in course descriptions, catalogs, syllabi, lesson plans, assignment lists, reading lists, or other contemporaneous documents; completed coursework produced by the applicant; any reliable information furnished by the applicant, the instructor who taught the course, a member of the academic department which offered the course, or a senior administrative official of the institution; and the title of the course. No one course will be recognized as satisfying more than one area of study.

In evaluating the applicant's academic credentials, the board shall consider the unavailability of the foregoing materials due to passage of time. In the event of a denial hearing, the board shall give due regard to the credibility of the applicant in evaluating any testimony of the applicant relating to course content, provided that the applicant has first demonstrated to the board a good faith effort to obtain the documentation described in the preceding paragraph.

- A. Pastoral Theology and Psychology~~5, 2~~
- B. Testing and Measurement, or Research Methods~~5, 2~~
- C. Studies in at least two of the following areas:
 - (1) Basic Pastoral Care~~5, 2~~
 - (2) Crisis Intervention~~5, 2~~
 - (3) Cross-cultural Issues~~5, 2~~
 - (4) Faith Development~~5, 2~~
 - (5) Grief Counseling~~5, 2~~
 - (6) Helping Relationships~~5, 2~~

- (7) History of Pastoral Care and Counseling~~;~~
 - (8) Hospital Ministry~~;~~
 - (9) Life Cycle Ritual~~;~~
 - (10) Psychology of Religion~~;~~
 - (11) Professional Orientation~~;~~
 - (12) Spiritual Direction~~;~~
 - (13) Human Growth and Development~~;~~ ~~and.~~
 - (14) Theories of Counseling.
- D. Studies in at least one of the following clinical areas:
- (1) Psychopathology~~;~~
 - (2) Clinical/pastoral assessment~~;~~ ~~and.~~
 - (3) Diagnosis and Treatment.
- E. Professional Ethics~~;~~ ~~and.~~
- F. Clinical Pastoral Education.

~~(4) One unit of 400 contact hours in~~ Four hundred hours of clinical pastoral education ~~in a program accredited by ACPE that meet the requirements of subparagraph (1) or (2) below. This Clinical pastoral education~~ is a supervised internship in ministry to persons in crisis. Development of a pastoral identity and the integration of the person of the student chaplain into the ministry ~~is~~ are the central ~~goal~~ goals. A typical program of clinical pastoral education ~~would include~~ includes ministry to individuals and their families, written reports of visits reviewed in individual and/or group supervision, group dynamics sessions, and didactic seminars. The ministry is in the context of teamwork with other professionals.

~~(1) A program accredited by ACPE or an equivalent organization; or~~

~~(2) The program is not accredited but integrates religious or spiritual study, peer discussions, meditation and pastoral counseling through living in a religious or spiritual community or periodic retreats to a religious or spiritual community. The program has a curriculum and syllabus, including content descriptions for didactic instruction and~~

seminars; clinical counseling, including group supervision and individual supervision; and clinical critique. The program requires program staff to prepare written evaluations of student performance in accordance with evaluation guidelines maintained by the program.

3. Nonconforming Curriculum

An applicant with a qualifying degree described in Section ~~23~~(1) of this chapter who completed a minimum of 20 semester hours or quarter-hour equivalent in counseling and human relations as part of the degree program that do not substantially satisfy the required areas of study described in Section ~~23~~(2) of this chapter may meet the educational requirement for licensure by completing such supplemental graduate level coursework as the board deems necessary to satisfy the deficiencies found.

4. Examinations

1. Nonclinical

To qualify for either conditional or full licensure, except as set forth in Chapter 6, Section 3(1) and (2) of the board's rules, the applicant shall achieve a passing score on the National Counselor Examination administered by the NBCC. ~~An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.~~

2. Clinical

~~[EFFECTIVE WITH RESPECT TO APPLICATIONS FOR FULL LICENSURE RECEIVED AFTER JANUARY 1, 2008]~~

To qualify for full licensure, the applicant shall achieve a passing score on the National Clinical Mental Health Counseling Examination administered by the NBCC. ~~An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.~~

5. Supervised experience

The applicant shall complete 3000 hours of supervised clinical counseling experience in pastoral counseling over a period of not less than 2 years following attainment of the qualifying degree. Supervision shall occur with substantial regularity throughout this period. The 3000 hours shall include a minimum of 1000 direct clinical client contact hours of pastoral counseling. The conditional licensee must receive 200 hours of supervision, including at least 1/3 of those hours (i.e., 67 hours) with an approved certified pastoral counseling supervisor. The 200 hours of supervision must be allocated in accordance with 32 MRSA §13858-A(3-A)(D). The approved supervisor may participate by live audio conference or live videoconference in lieu of physical presence in up to 50 hours of individual

supervision. Supervised experience must be earned during the applicant’s period of conditional licensure.

[NOTE: Title 32 MRSA §13858-A(3-A)(D) requires “two hundred hours of supervision...at least 30 hours of which must be interdisciplinary, 30 hours of which must be individual supervision by one supervisor of no more than 3 cases from intake to termination, and 70 hours of which must be individual supervision of multiple case material.”]

All supervision required by this chapter must be provided by a supervisor approved by the board who is not related to, living with, or having a personal relationship with the supervisee and who meets the qualifications set forth below:

The supervisor is a licensed clinical professional counselor, licensed marriage and family therapist, licensed pastoral counselor, licensed clinical social worker, certified social worker-independent practice, licensed psychologist or licensed psychiatrist not under suspension or probation who meets one of the following additional criteria:

1. Licensed practice for a minimum period of five years, including not more than two years of practice as an entry-level conditional licensee;
2. Certification by a national professional organization in training or supervision; or

[NOTE: For example, certification as an approved clinical supervisor by NBCC.]

3. Thirty contact hours of training in supervision and a minimum of one year of licensed practice at a licensure level higher than entry-level conditional.

[TRANSITION NOTE: A supervisor who does not meet the qualifications for supervisor set forth in this subsection may continue to supervise only the specific individuals for whom the supervisor was responsible on the effective date of the rules adopted on [insert date of adoption].

6. Conditional Licensure

1. Application

The application shall include:

- A. ~~Documented proof~~Proof of ~~completed the~~ education required by Section 3 of this chapter;
- B. Proof of a passing score on the National Counselor Examination, or a request to take the examination;

- C. A plan for supervision by an approved supervisor. The plan must meet the requirements ~~of for supervised experience contained in~~ Section ~~4(2)5~~ of this chapter and shall be submitted on a form ~~supplied-provided~~ by the board.;
- D. A proposed disclosure statement that meets the requirement of Chapter 8-B, Section ~~42(1) of the board's rules~~;
- E. The fee prescribed by Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;"
- F. Three letters of reference on a form provided by the board to be completed by professionals in the counseling field. The letters must be dated within one year prior to the date of the application;
- G. License verifications from all jurisdictions in which the applicant was ever licensed as a mental health professional; and
- H. Such other information as the board may require.

2. Supervision and Experience

~~The conditional licensee shall complete 3000 hours of supervised clinical counseling experience in pastoral counseling as a conditional licensee over a period of not less than 2 years following attainment of the qualifying degree. Supervision shall be continuous throughout this period. The 3000 hours shall include a minimum of 1000 direct clinical client contact hours of pastoral counseling. The conditional licensee must receive 200 hours of supervision, including at least 1/3 of those hours (i.e., 67 hours) with an approved certified pastoral counseling supervisor. The 200 hours of supervision must be allocated in accordance with 32 MRSA §13858-A(3-A)(D).~~

~~[NOTE: Title 32 MRSA §13858-A(3-A)(D) requires "two hundred hours of supervision...at least 30 hours of which must be interdisciplinary, 30 hours of which must be individual supervision by one supervisor of no more than 3 cases from intake to termination, and 70 hours of which must be individual supervision of multiple case material."]~~

2. Administrative Responsibilities and Practice Limitations

- A. Both the conditional licensee and the supervisor shall maintain ongoing records of supervision and shall produce the records for inspection and copying upon request of the board.

- B. A conditional licensee may not change supervisors without prior to receipt of written approval from the board. The request licensee must explain submit a written request explaining the reason for the proposed change ~~and~~. The request must be accompanied by the termination/evaluation report described in Section 46(32)(C) of this chapter and a substitute supervision plan submitted on a form supplied by the board.
- A. The supervisor shall submit a termination/evaluation report to the board:
- (1) Upon a change of supervisor;
 - (2) Upon termination of the supervisory relationship prior to completion of the supervision and supervised experience set forth in Section 4(2)5 of this chapter; and
 - (3) Upon completion of the supervision and supervised experience set forth in Section 4(2)5 of this chapter.
- B. A conditional licensee may not practice except under supervision as set forth in this section. A conditional licensee shall use the designation “conditional” in all documentation, correspondence and informational materials.

3. License Term

The conditional license is issued for a 2-year period. The license may be renewed for up to two additional 2-year periods (exclusive of any periods of inactive status) as necessary for the licensee to complete the supervised experience required by Section 4(2)5 of this chapter. The license will not be further renewed unless the licensee demonstrates to the satisfaction of the board that extenuating circumstances of genuine hardship prevented the licensee from completing the supervised experience within the 6-year period described in this subsection.

4. Waiver of Conditional Licensure

The board may waive conditional licensure in whole or in part and may recognize supervised clinical experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 5 of this chapter.

7. Full Licensure

A conditional licensee or other qualified applicant may apply to the board for full licensure as a licensed pastoral counselor upon achieving a passing score on the National Clinical Mental Health Counseling Examination [see note below] and

~~upon~~ completion of the supervised experience required by Section ~~4(2)5~~ of this chapter or substantially similar supervised experience. The applicant shall submit:

1. ~~[EFFECTIVE WITH RESPECT TO APPLICATIONS FOR FULL LICENSURE RECEIVED AFTER JANUARY 1, 2008]~~ Proof of a passing score on the National Clinical Mental Health Counseling Examination, or a request to take the examination;
 - 1-A Proof of a passing score on the National Counselor Examination, if not previously provided to the board, except as set forth in Chapter 6, Section 3(1) and (2) of the board's rules;
 - 1-B Proof of the education required by Section 3 of this chapter, if not previously provided to the board;
2. Proof of successful completion of supervised experience on a form supplied by the board;
3. Certification of completion of 55 hours of continuing professional education during the term of the conditional license in accordance with Chapter ~~8;7-A Section 4~~ of the board's rules, unless conditional licensure was waived by the board pursuant to Section 6(4) of this chapter or is not required;
4. ~~The applicant's~~A proposed disclosure statement, ~~as described in that meets the requirements of~~ Chapter ~~8-B~~, Section ~~4-2(1)~~ of the board's rules;
5. The fee prescribed in Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;" and
6. Such other information as the board may require.

[NOTE: To avoid a gap in licensure, the board encourages conditional licensees to promptly apply for full licensure upon completion of their supervised experience.]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 5-A ~~REGISTRATION REQUIREMENTS~~ REGISTERED COUNSELORS**

Summary: This chapter ~~outlines the requirements for registration with the Board of Counseling Professionals Licensure~~ describes the practice obligations of registered counselors. Pursuant to 32 MRSA §13863(9), no new registrations are being issued. Persons who were validly registered as of August 1, 2008 may renew their registrations as set forth in Chapter 7 of the board's rules.

1. Scope of Practice

A registered counselor may only engage in the procedures of counseling as defined in 32 MRSA §13851(8). *A registered counselor may not diagnose or treat mental health disorders.*

2. Generally

No individual may engage in the procedures of counseling for a fee, monetary or otherwise, unless that individual is licensed or registered with the department. Each individual who registers shall fill out a form provided by the board.

3. Official Designation

The official designation of an individual who registers under this chapter shall be Registered Counselor.

~~4. Qualifications for Registration~~

~~To register under this chapter, an individual shall:~~

~~1. Be at least 18 years of age;~~

~~2. Demonstrate trustworthiness and competence;~~

~~3. Complete a registration form supplied by the board and pay the fee prescribed in Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;" and~~

~~4. Submit a copy of the current or proposed disclosure statement as required by Chapter 8-B, Section 2(3) of the board's rules.~~

5.4. Practice Obligations

A registered counselor shall:

1. Adhere to the Code of Ethics contained in Chapter 8-A of the board's rules;
1. Distribute a disclosure statement to clients as required by Chapter 8-B, Section 2(3) of the board's rules; and
2. Display and observe the client bill of rights described in Chapter 8-B, Section 1 of the board's rules.

A registered counselor is subject to disciplinary action for violation of the statutes governing the practice of counseling and the rules of the board to the same extent as a licensed counselor.

6.5. No Endorsement of Qualifications

Registration does not imply or certify in any way that the registered counselor has met any standards or criteria of education or training.

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
514 BOARD OF COUNSELING PROFESSIONALS LICENSURE
Chapter 6 APPLICATIONS / APPLICANTS LICENSED IN ANOTHER JURISDICTION

Summary: This chapter sets forth general requirements relating to applications for licensure, applicants trained in foreign countries, and applicants licensed in other jurisdictions.

1. Completion of Application Process

An applicant ~~must~~ shall complete the application process for ~~a conditional license~~ licensure within a period of one year from the date the application is received by the board. ~~An applicant must complete the application process for a full license within a period of one year from the date the applicant completes the supervised experience required by the board's rules.~~ Applications that remain incomplete after the one year period described in this section will be discarded.

2. Applicants Trained In A Foreign Country

An applicant who received counselor education or training outside of the United States ~~must~~ shall submit his or her educational or training credentials for evaluation to ~~an evaluating service~~ World Education Services, Inc., Center for Educational Documentation, Inc., or other transcript analysis services that has been approved by the board. ~~The board will evaluate the educational or training credentials to~~ Upon receipt of the evaluation, the board will determine whether the ~~program is~~ applicant's qualifications for licensure are substantially similar to ~~a program of professional counseling in the State of Maine as defined by standards~~ the requirements for licensure contained in Chapters 2–5 of the board's rules. Any cost related to this evaluation is the responsibility of the applicant.

3. Applicants Licensed in Another Jurisdiction

1. Substantially Equivalent License

An applicant licensed in another jurisdiction who seeks licensure in Maine pursuant to 32 MRS §13857(2)(B) shall procure license verifications from all jurisdictions in which the applicant was ever licensed as a mental health professional. The applicant shall also submit the following materials to the board:

- A. A completed application form;
- B. The application fee prescribed in Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees;"

- C. The applicant’s current or proposed disclosure statement, as described in Chapter 8-B, Section ~~1~~2 of the board’s rules;
- D. All counseling licenses under which the licensee actively practiced during the 5 consecutive years immediately preceding application to the board;
- E. The counseling law and rules of all jurisdictions in which the licensee actively practiced during the 5 consecutive years immediately preceding application to the board; and
- F. A summary in the nature of a resume describing the applicant’s practice of counseling during the five consecutive years immediately preceding application for licensure to the board. The summary must contain sufficient contact information to enable verification by mail and telephone.

The board will review the materials submitted by the applicant to determine if the applicant has actively practiced with a substantially equivalent license for at least 5 consecutive years immediately preceding application to the board at the level of licensure applied for in this State.

2. Substantially Similar Qualifications

An applicant licensed in another jurisdiction who seeks licensure in Maine pursuant to 32 MRSA §13857(2)(C) shall procure license verifications from all jurisdictions in which the applicant was ever licensed as a mental health professional. The applicant shall also submit the following materials to the board:

- A. A completed application form;
- B. The application fee prescribed in Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees;”
- C. The applicant’s current or proposed disclosure statement, as described in Chapter 8-B, Section 2(~~2~~) of the board’s rules;
- D. The applicant’s current counseling license; and
- E. The application materials required for licensure as a professional counselor, licensed professional counselor, licensed marriage and family therapist or licensed pastoral counselor by Chapters 2 – 5 of the board’s rules, respectively, provided that the board in its discretion may accept copies of references and supervisor statements that were originally submitted to another jurisdiction.

An applicant who received counselor education or training outside the United States must comply with Section 2 of this chapter.

The board will review the materials submitted by the applicant to determine if the applicant's qualifications are substantially similar to the requirements contained in 32 MRSA §13858 and the board's rules. For purposes of this subsection, an applicant for licensure as a licensed clinical professional counselor or licensed pastoral counselor who has not taken the nonclinical examination required by Chapter 3, Section ~~23~~(1) or Chapter 5, Section ~~34~~(1), respectively, of the board's rules shall not for that reason alone be deemed to lack substantially similar qualifications.

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 7 LICENSE RENEWAL; INACTIVE STATUS**

Summary: This chapter sets forth the processes for license renewal, application for inactive status and reinstatement to active status.

1. License Renewal

A counselor shall renew a license by:

1. Submitting a renewal application;
2. Attesting to completion of continuing education as required by Chapter 7-A of the board's rules. Timely completion of continuing education is a condition of renewal;

[NOTE: Chapter 7-A does not require registered counselors to complete any continuing education.]

3. Remitting the license fee required by Chapter 10, Section 5(13) of the Rules of the Office of Licensing and Registration, entitled Establishment of License Fees;
4. For licenses renewed up to 90 days after the date of expiration, remitting the late fee required by Chapter 11, Section 2(1) of the Rules of the Office of Licensing and Registration, entitled Late Renewals; and
5. Providing such other information as the board may require.

2. Inactive Status**1. Application and Renewal**

A counselor may apply for an inactive status license. A counselor who applies for inactive status during the 6 months prior to expiration of the counselor's license must demonstrate compliance with the continuing education requirement set forth in Chapter 7-A of the board's rules for the biennium during which application is made. The board may refuse to issue an inactive status license to a counselor who:

- A. Is ineligible for renewal of an active license; or
- B. Applies for an inactive status license during the 6 months prior to expiration and fails to demonstrate compliance with the continuing education requirement for the biennium during which application is made.

2. Prohibition Against Practice

A licensee may not engage in the practice of counseling while in inactive status.

3. Continuing Education

A licensee need not comply with the continuing education requirement contained in Chapter 7-A of the board's rules while in inactive status.

4. Renewal of Inactive Status License

A counselor shall renew an inactive status license by:

- A. Submitting a renewal application;
- B. Remitting the license fee required by Chapter 10, Section 5(13) of the Rules of the Office of Licensing and Registration, entitled Establishment of License Fees; and
- C. Providing such other information as the board may require.

5. Reinstatement to Active Status

A counselor in inactive status may apply to the board for reinstatement to active status. If the counselor held a conditional license at the time the counselor entered inactive status, the reinstatement application must include a proposed supervision plan for approval by the board. The board, giving due consideration to the length of time the licensee was in inactive status, shall determine:

- A. An appropriate amount of continuing education required for reinstatement of the counselor to active status. Continuing education ordered pursuant to this paragraph shall not exceed 40 hours in duration and shall not include peer supervision;
- B. The suitability of the proposed supervision plan submitted by a conditional licensee; and
- C. Such other requirements and conditions as may be necessary to ensure the competence of the licensee to resume the practice of counseling.

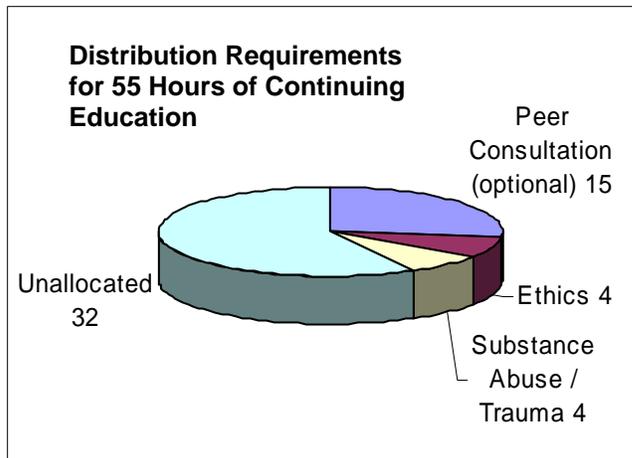
STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8), 13864

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING LICENSURE PROFESSIONALS****Chapter 7-A CONTINUING EDUCATION**

Summary: This chapter requires licensees other than registered counselors to update and advance their skills through continuing education.

1. 55 Hours of Continuing Education Required for License Renewal



All licensees other than registered counselors shall attest at time of license renewal to completion of 55 contact hours of continuing education activities directly relating to the theory and practice of professional counseling during the preceding license biennium. The 55 hours must meet the subject matter distribution requirements contained in Section 2 of this chapter and the eligibility requirements contained in Section 3 of this chapter.

2. Subject Matter Distribution

1. Peer Consultation Component (optional)

Up to 15 hours of the 55 contact hours of continuing education required by this chapter may consist of peer consultation provided by a licensed mental health professional. Peer consultation may be individual or group. Peer consultation may take the following forms:

- A. Supervised experience required for licensure;
- B. Peer consultation as defined in Chapter 1, Section 1(15-A) of the board's rules; and
- C. Supervision voluntarily solicited by the licensee. For purposes of this chapter, supervision does not include supervision or consultation received pursuant to a board order or consent agreement.

2. Ethics Component

At least four hours of the 55 contact hours of continuing education required by this chapter shall relate to subjects addressed in the Code of Ethics contained in Chapter 8-A of the board's rules.

3. Trauma/Substance Abuse Component

At least four hours of the 55 contact hours of continuing education required by this chapter shall relate to domestic violence, substance abuse, emotional trauma, or any combination thereof.

4. Unallocated Hours

The remaining hours of the 55 contact hours of continuing education required by this chapter shall relate to any aspect of the theory or practice of professional counseling, including any additional hours in ethics or trauma/substance abuse in excess of the 4-hour minimums.

3. Eligible Continuing Education Activities; Documentation

Continuing education activities directly relating to the theory and practice of professional counseling may be offered by departments of regionally-accredited institutions, by national, state or local professional organizations or associations, by public or private human services organizations, or by private consultants or individuals. All continuing education activities completed by a licensee, including informal home study, formal home study courses and on line, internet and other distance learning programs, must be documented by a signed certificate issued by the sponsor or peer consultant, an official academic transcript, or other reliable written proof of completion that is acceptable to the board. The documentation must include the date and time span of the activity, the name of the presenter, course or program, and the number of contact hours earned. The licensee's attestation of completion of continuing education is subject to audit pursuant to Chapter 13 of the rules of the Office of Licensing and Registration, entitled "Uniform Rule for the Substantiation of Continuing Education Requirements."

The following activities are eligible for continuing education credit for purposes of license renewal:

1. Peer consultation as authorized by Section 2(1) of this chapter:

*** 15 hours maximum ***

2. Graduate academic courses from a regionally-accredited institution, including any such courses taught through established distance learning procedures;

No maximum

3. Institutes, workshops, seminars, conferences, employer-sponsored in-service training, formal home study courses, and on line, internet and other distance learning programs;

No maximum

4. Up to five contact hours for informal home study or prerecorded programs, combined;
5 hours maximum
5. Professional writing published in book form or journal articles, provided that:
 - A. Professional writing may account for no more than 20 contact hours; and
 - B. The date on which the book or journal article was accepted for publication must fall within the license biennium for which the contact hours are claimed;
20 hours maximum
6. Teaching graduate academic courses at a regionally-accredited institution, or presenting at institutes, workshops, seminars and conferences, provided that the total of such teaching or presentation activity may account for no more than five contact hours, exclusive of preparation time; and
5 hours maximum
7. Field supervision of interns enrolled in a counseling program that meets the criteria of Chapter 2, Section 2, Chapter 3, Section 2, Chapter 4, Section 2, or Chapter 5, Section 3 of the board's rules, for no more than five contact hours. Conditional licensees are not eligible to earn continuing education credit under this subsection.
5 hours maximum
4. Ineligible Continuing Education Activities

The following activities are ineligible for continuing education credit:

 5. Repetition of Certain Activities

Continuing education credit may not be claimed more than once for completing the same prerecorded program, home study, or on line, internet or other distance learning program.
 6. Service with Professional Associations or Regulatory Boards

Continuing education credit may not be claimed for elective office or service in professional associations or societies, or for membership on governmental regulatory boards.
 7. Supervision Received Pursuant to a Board Order or Consent Agreement

Continuing education credit may not be claimed for supervision received pursuant to a board order or consent agreement.

8. Computer Training, Practice Management, Office Management

Continuing education credit may not be claimed for activities that substantially focus on computer training, practice management, billing or coding, office management or administration.

9. Personal Growth or Alternative Therapy Activities

Continuing education may not be claimed for: the study of yoga, energy healing or alternative therapy; exploration of personal growth; or any activity of any nature whatsoever that does not directly relate to the theory and practice of professional counseling.

[NOTE: Continuing education is waived for licensees during periods of inactive status pursuant to 32 MRSA §13864-A and Chapter 7, Section 2(3) of the board's rules. Continuing education is required for reactivation of an inactive license pursuant to 10 MRSA §8003(5-A)(D)(5), 32 MRSA §13864-A and Chapter 7, Section 2(5)(A) of the board's rules.]

5. Transition Period

Licensees renewing before January 1, 2011 may satisfy the continuing education obligation by (a) meeting the requirements of this chapter, or (b) meeting the requirements of former Chapter 8, Section 4 of the board's rules as that provision existed immediately prior to its repeal. Licensees renewing on or after January 1, 2011 shall satisfy the continuing education obligation by meeting the requirements of this chapter exclusively.

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

514 BOARD OF COUNSELING LICENSURE PROFESSIONALS

Chapter 8 STANDARDS OF PRACTICE

Summary: This chapter outlines the standards of practice which include: (1) Disclosure Statement; (2) Client Bill of Rights; (3) Code of Ethics; and (4) Continuing Education.

1. [Repealed]

This chapter is repealed in its entirety.

STATUTORY AUTHORITY:

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 8-A CODE OF ETHICS**

Summary: This chapter contains the code of ethics to be followed by licensed and registered counselors.

1. Preamble

Licensed Clinical Professional Counselors, Licensed Professional Counselors, Licensed Marriage and Family Therapists, Licensed Pastoral Counselors (including conditional licensees) and Registered Counselors are dedicated to enhancing the worth, dignity, potential and uniqueness of each individual, and thus to the service of society. They are committed to increasing knowledge of human behavior through continuous efforts to improve their professional and personal growth and recognize the need for continued training and education to prepare themselves to serve persons of all ages and cultural backgrounds. They are accountable for their work, and recognize the boundaries of their competence and limitations of their techniques. Counselors' concerns are for the best interest of their clients, colleagues and society in general. In the pursuit of these ideals, individuals who are licensed as Clinical Professional Counselors, Professional Counselors, Marriage and Family Therapists, Pastoral Counselors or Registered Counselors shall abide by the following code of ethics.

2. Client Relationship

A counselor's primary responsibility is to the client. The counselor shall make every reasonable effort to protect the welfare and best interests of those who seek services or of any who may be the object of a study, including respecting the rights of those persons seeking assistance and making reasonable efforts to insure that the counselor's services are used appropriately. The counselor is responsible for maintaining professional standards and ethics in all relationship exchanges through face to face, electronic or any other means by which client information is transmitted or received and confidentially protected. In couples and family counseling, if it becomes apparent that the counselor may be called upon to perform potentially conflicting roles, the counselor must clarify, adjust or withdraw from roles appropriately.

[NOTE: See also Section 6, Confidentiality, with respect to the counselor's obligation to determine and document who the clients are when engaging in couples and family counseling.]

Misconduct includes, but is not limited to, the following:

1. Initiating or maintaining dual relationships with a client or the spouse or partner of a client which could reasonably be expected to:

- A. Impair or diminish the professional judgment, objectivity or effectiveness of the counselor; or
- B. Pose a risk of harm to or exploitation of the client.

Dual relationships occur when a counselor relates to a client in a personal, social, organizational, political, financial, business or employment capacity in addition to the professional relationship of counselor and client. Dual relationships also occur when a counselor relates to a spouse or partner of a client in a similar manner. Examples of impermissible dual relationships include counseling an employee or supervisor; counseling a close friend or family member; or engaging in close personal relationships with clients. Dual relationships that would not reasonably be expected to cause impairment or pose a risk of harm or exploitation are not unprofessional. If a counselor is concerned that conduct may constitute a dual relationship, the board encourages the counselor to seek peer consultation;

[NOTE: A consultation received by the counselor does not insulate the counselor from responsibility in the event that disciplinary action is brought against the counselor arising out of the relationship.]

- 2. Exploiting relationships with clients for personal gain or financial advantage;
- 3. Using any confidence of a client to the client's disadvantage;
- 4. In couples and family counseling, failing to clarify, adjust or withdraw from roles when conflict arises in the counseling relationship;
- 5. Failing to notify and assist the client in seeking alternative services consistent with the client's needs and preference when termination or interruption of service to the client is anticipated, including termination or interruption caused by the counselor's resignation from employment;
- 6. Failing to terminate a client relationship when it is reasonably clear that the treatment no longer serves the client's needs or interests;
- 7. Delegating professional responsibilities to another person when the licensee or registrant delegating the responsibilities knows or has reason to know that such person is not qualified by training, experience or licensure to perform them;
- 8. Failing to clarify to the client that all decisions are the right and responsibility of the client; and

9. Failing to recognize the need for a screening process for prospective group counseling participants, especially when the emphasis is on self-understanding and growth through self-disclosure, and failing to maintain awareness of each of the group members' welfare through the group process.

3. Competence

The counselor shall act in accordance with the highest standards of professional integrity and competence. Counselors will seek only those positions in the delivery of service to clients for which they are professionally qualified.

Misconduct includes, but is not limited to, the following:

1. Practicing in an area in which the licensee has not obtained professional training;
2. Failing to recognize potential or actual harm to the client when diagnosing, treating, or advising clients on problems outside the recognized boundaries of the licensee's or registrant's competence;
- 2-A. Failing to refer the client to an appropriate professional or resource when the necessary service cannot be satisfactorily provided by the counselor;
3. Engaging in dishonesty, fraud, deceit, or misrepresentation while performing professional activities;
4. Failing to recognize the need for continued training, knowledge, personal awareness and relevant techniques necessary to treat clients from a culture different from the licensee or registrant's culture;
5. Failing to seek appropriate professional assistance for the licensee's or registrant's own personal problems or conflicts when they are likely to lead to inadequate services to the client; and
6. Failing to seek peer consultation when necessary.

4. Moral and Legal Standards

The counselor is honest in dealing with clients, students, trainees, colleagues and the public. The counselor will avoid any action that would violate or diminish the legal and civil rights of clients.

Misconduct includes, but is not limited to, the following:

1. Practicing inhumane or discriminatory treatment toward any person or group of persons that would result in unjustifiable discrimination on the

basis of age, race, gender, religion, sexual preference, national origin or disability;

2. Engaging in sexual activity as defined in Chapter 1, Section 1(19) of the board's rules with a:

- Client; or
- Spouse or partner of a client

during the counseling relationship or within five years following the last professional contact with the client. Counselors who engage in such activity after five years following the last professional contact must thoroughly document before commencing the activity that the activity is not of an exploitive nature and will not have an adverse impact on the client. The counselor shall base this determination on factors such as the—

- Nature, duration and intensity of counseling;
- Amount of time since counseling;
- Circumstances of termination; and
- Personal history and mental status of the client.

The counselor's determination of no exploitation and no adverse impact is reviewable by the board in the event that disciplinary action is brought against the counselor arising out of the activity.

3. Engaging in sexual activity as defined in Chapter 1, Section 1(19) of the board's rules with an:

- Adult child or stepchild of the client

during the counseling relationship or at any time following the last professional contact unless the counselor thoroughly demonstrates and documents before commencing the activity that the activity is not of an exploitive nature and will not have an adverse impact on the client. The counselor shall base this determination on factors such as the—

- Nature, duration and intensity of counseling;
- Amount of time since counseling;
- Circumstances of termination; and
- Personal history and mental status of the client.

The counselor's determination of no exploitation and no adverse impact is reviewable by the board in the event that disciplinary action is brought against the counselor arising out of the activity.

4. Engaging in sexual activity as defined in Chapter 1, Section 1(19) of the board's rules with a—

- Supervisee,
- Student; or
- Research subject

of the counselor at the time the sexual activity takes place;

5. Counseling an individual with whom the counselor has had a prior sexual relationship;
6. Counseling a client in an inappropriate environment for professional services, in a location or setting that places the client at risk of harm or exploitation, or in a location or setting in which privacy cannot be assured, unless counseling in such circumstances is clinically indicated and documented in clinical notes;
7. Practicing while under the influence of alcohol or drugs not prescribed by a licensed physician;
8. Accepting or giving a fee or anything of value for making or receiving a referral;
9. Using an institutional affiliation to solicit clients for the licensee or registrant's private practice;
10. Failing to have sensitive regard for the moral, social, and religious beliefs of clients and communities, or imposing the licensee's or registrant's beliefs on clients;
11. Counselors ordinarily refrain from accepting goods, services or other noncash remuneration from clients in return for counseling services because such arrangements create potential for conflicts, exploitation, and distortion of counselor-client relationships. A counselor may participate in bartering only if: a) the client requests this method of payment; b) unusual circumstances make it the only feasible option; c) it is not clinically contraindicated; and d) the relationship is not exploitive. When the client is providing services as a barterer, the time required of him or her must be equitable. Counselors must avoid creating a dual relationship when bartering with clients; and
12. Counselors understand the challenges of accepting gifts from clients and recognize that in some cultures, small gifts are a token of respect and a showing of gratitude. When determining whether or not to accept a gift from clients, counselors take into account the therapeutic relationship, the monetary value of the gift, a client's motivation for giving the gift, and the counselor's motivation for receiving or declining the gift as documented in clinical notes.

5. Records

Counselors maintain records necessary for rendering professional services to their clients. Client records must completely and accurately document: (a) counseling provided by the counselor to the client; (b) client progress; (c) contacts and communications between counselor and client that relate to the provision of counseling to the client; and (d) communications between the counselor and persons other than the client that relate to the counselor's provision of counseling to the client. "Communications," as used in this section, specifically includes email. If errors are made in client records, counselors take steps to properly note the correction of such errors. The counselor retains client records for at least five years after the last counselor/client contact, including cases in which the client is deceased.

Misconduct includes, but is not limited to the following:

1. Failing to maintain complete and accurate client records;
2. Failing to provide a client access to the client's records in accordance with 22 MRSA §§1711-A, 1711-B and 1711-C(10)(C);
3. Failing to retain client records as required by this Section; and
4. Failing to store or dispose of client records in a way that maintains security and confidentiality, and when providing others with access to the client's records, failing to insure that the content of the information is accurate and unbiased.

6. Confidentiality

The counselor holds in confidence all information obtained, generated or documented in the course of providing counseling. Physical records created by the counselor are the property of the counselor or the counselor's employer. The information contained in the records belongs to the client and therefore may not be disclosed to others without the consent of the client, except in accordance with 32 MRSA §13862 or 22 MRSA §1711-C. The counselor safeguards client confidences and client records to the maximum extent permitted by law.

Except as described below for couples and family counseling, a counselor does not disclose client information to a person other than the client unless: (a) the client or an authorized representative of the client has executed a written release in conformity with 22 MRSA §1711-C and other applicable law; or (b) the disclosure is permitted by 32 MRSA §13862, 22 MRSA §1711-C or other applicable law.

In couples and family counseling, the counselor determines which person or persons are the client or clients. The counselor discusses this determination with the client or clients and documents the discussion and determination in clinical

notes. If additional persons become clients in the counseling relationship, the counselor confirms this status with the existing client(s) and documents this discussion and determination in clinical notes.

In couples and family counseling, the counselor discusses and reaches agreement with multiple clients as to: (a) the expectations and limitations of confidentiality among them; and (b) the extent to which the counselor can share client information with family or household members consulted by the counselor in the course of providing professional services. The counselor documents this agreement and any revisions to it on an ongoing basis in clinical notes.

Misconduct includes, but is not limited to, the following:

1. Disclosing client information to a person other than the client without a written release authorizing the disclosure or as otherwise permitted by this Section;
 2. In couples and family counseling, failing to follow the procedures described in this Section for the determination of multiple clients and the sharing of client information among clients or with family or household members;
 3. Failing to obtain written informed consent from each client before electronically recording sessions with that client or before permitting third party observation of their sessions;
 4. Failing to protect the confidences of the client from disclosure by employees, associates, and others whose services are utilized by the counselor;
 5. Failing to fully disguise the identity of the client when using material derived from a counseling relationship for purposes of training or research;
 6. Disclosing records of a client's diagnosis, prognosis or treatment relating to substance abuse in violation of 42 USC §290dd-2; and
 7. Disclosing a client's HIV infection status in violation of 5 MRSA Chapter 501.
7. Responsibility to Colleagues

The counselor respects the rights and responsibilities of professional colleagues and, as an employee of an organization, remains accountable as an individual for the ethical principles of the board. The counselor treats colleagues with respect and good faith. The counselor does not ignore unethical conduct by other counselors.

Misconduct includes, but is not limited to, the following:

1. Soliciting the clients of colleagues or assuming professional responsibility for clients of another agency or colleague without appropriate communication with that agency or colleague;
 2. Failing to maintain the confidences shared by colleagues in the course of professional relationships and transactions with those colleagues;
 3. Taking credit for work not personally performed, whether by giving inaccurate information or failing to give accurate information;
 4. Failing to take action when it is apparent that another counselor violates this code of ethics. Such action consists of either or both of the following:
 - A. Discussing their concerns with the colleague when feasible and when such discussion is likely to be productive; and
 - B. In the appropriate case, filing a complaint with the board; and
 5. Disparaging and/or harassing another professional in the field.
8. Measurement and Evaluation

When using assessment instruments or techniques, the counselor shall make every effort to promote the welfare and best interests of the client. The counselor guards against the misuse of assessment results and respects the client's rights to know the results, the interpretations and the basis for any conclusions or recommendations.

Misconduct includes, but is not limited to, the following:

1. Failing to provide the client with specific orientation or information regarding the purpose of testing or the proposed use of the tests prior to administration of assessment instruments or techniques in language that the client can understand;
2. Failing to evaluate carefully the specific theoretical bases, validity, reliability, and appropriateness of test measures for use in a given situation or with a particular client;
3. Using unsupervised or inadequately supervised test-taking techniques with clients, such as testing through mail, unless the test is specifically self-administered or self-scored;
4. Using test instruments beyond the licensee's or registrant's competence for administration, scoring and interpretation;

5. Using client test results that have become obsolete;
 6. Failing to acquire the competence and knowledge required in the use of electronic data and computer-based systems, including familiarity with scoring as well as evidence of validity for specific interpretations;
 7. Failing to ensure that data maintained in electronic storage is secure, and that this data is destroyed when the information is no longer of value in providing services; and
 8. Failing to recognize cultural bias in the evaluation and interpretation of test results of minority group members.
9. Research

The counselor recognizes that research activities must be conducted with full respect for the rights and dignity of participants and with full concern for their welfare. Participation in research must be voluntary unless it can be demonstrated that involuntary participation will have no harmful effects on the subjects and is essential to the investigation. The ultimate responsibility for ethical research lies with the principal researcher.

Misconduct includes, but is not limited to, the following:

1. Failing to consider carefully the possible consequences for human beings participating in the research;
2. Failing to protect each research participant from unwarranted physical, emotional and mental harm;
3. Failing to ascertain that the consent of the research participant is voluntary and informed;

Counselors who conduct research must abide by the following basic elements of informed consent:

- A. Providing the client with a fair explanation of the procedures to be followed;
 - B. Providing the client with a description of the risks;
 - C. Providing the client with a description of the benefits;
 - D. Informing the client that he or she is free to withdraw his or her consent at any time during the research;
4. Failing to treat information obtained through research as confidential;
 5. Knowingly reporting distorted, erroneous, or misleading information; and

6. Failing to be familiar with and give recognition to previous work when conducting and reporting research.

10. Professional Representation

The counselor adheres to professional standards when making known his or her availability for professional services, including making counseling services available in private settings. The counselor must provide information that accurately informs the public of the professional services, expertise, and techniques available, and the highest degree earned from an accredited institution which is in the counseling field.

Misconduct includes, but is not limited to, the following:

1. Inaccurately representing the counselor's professional competence, education, training, experience or level of licensure, or knowingly failing to correct any misrepresentations made by others;
2. Providing information that contains false, inaccurate, misleading, partial, out-of-context, or otherwise deceptive statements about the licensee's or registrant's professional services, or knowingly failing to correct inaccurate information provided by others;
3. Making claims or guarantees which promise more than the licensee or registrant can realistically provide; and
4. Failing to assure that advertisements and publications, whether in directories, announcement cards, newspapers, or on radio or television, are formulated to convey information that is necessary for the public to make an appropriate selection.

11. Supervision

The licensed counselor, acting as a supervisor, provides professional assistance to individuals or groups to clarify and resolve issues or dilemmas related to clients and is responsible for monitoring client welfare, encouraging compliance with relevant legal and ethical standards, monitoring performance and professional development of supervisees, and evaluating and verifying current performance of supervisees. The supervisor must be well trained and experienced in providing supervision as well as aware of the limits of his or her skill, knowledge and competence.

Misconduct includes, but is not limited to, the following:

1. Failing to ensure that supervisees inform their clients that they are being supervised;

2. When supervisees are conditionally licensed, failing to ensure that supervisees inform their clients that they are conditionally licensed;
 3. Engaging in supervision without adequate training in supervision and supervision methods;
 4. Failing to maintain regular, substantive and ongoing professional development in supervision;
 5. Failing to make supervisees aware of legal and ethical standards of the profession of counseling as well as those standards established by the board;
 6. Failing to establish procedures with the supervisee for handling crisis situations;
 7. Failing to provide the supervisee with ongoing review and feedback;
 8. Engaging in a dual relationship with a supervisee that impairs the objectivity of the supervisor or in which the licensee is exploited by the supervisor;
 9. Establishing a psychotherapeutic relationship with the supervisee or establishing a supervisory relationship with a client;
 10. Failing to provide assistance to supervisees who are unable to provide competent services;
 11. Endorsing a supervisee for licensure when the supervisor is aware that the supervisee is impaired such that his or her performance may be adversely affected; and
 12. Providing supervision in areas beyond the current level of knowledge and skill of the supervisor.
12. Addendum for Pastoral Counselors
- Pastoral counselors are committed to the traditions and values of their faith communities, maintain association with the faith group in which they have standing, and are accountable for their ministry and to their faith community, whatever its setting.

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**514 BOARD OF COUNSELING PROFESSIONALS LICENSURE****Chapter 8-B CLIENT BILL OF RIGHTS; DISCLOSURE STATEMENTS**

Summary: This chapter contains the client bill of rights and counselor disclosure statements adopted by the board, and requires counselors to distribute these documents to clients in hand at the commencement of the counseling relationship.

1. Client Bill of Rights**1. Text**

The client bill of rights reads as follows:

“Clients have the right—

- To expect that a counselor has met the licensure or registration requirements of state law and rule;
- To examine a counselor’s licensing credentials;
- To obtain a copy of the Code of Ethics of the Board of Counseling Professionals Licensure;
- To file a complaint against a counselor with the board;
- To be informed of the cost of professional services before receiving services;
- To expect complete confidentiality except as required by law; and
- To refuse any recommended services and to be advised of the consequences of this action.

The practice of counseling is regulated by the Board of Counseling Professionals Licensure. The board is authorized by law to discipline counselors who violate the board’s law or rules. To learn about the complaint process, or to file a complaint against a counselor, contact:

Complaint Coordinator
Office of Licensing and Registration
35 State House Station
Augusta, ME 04333
Tel: (207) 624-8660

Web: www.maine.gov/professionallicensing”

2. Distribution by Licensed Professional Counselors, Licensed Clinical Professional Counselors, Licensed Marriage and Family Therapists and Licensed Pastoral Counselors

A licensed professional counselor, licensed clinical professional counselor, licensed marriage and family therapist and licensed pastoral counselor shall personally give a copy of the client bill of rights adopted in Section 1(1) of this chapter to each client in hand at the commencement of the counseling relationship.
 3. Signature and Distribution by Registered Counselors

A registered counselor shall sign the client bill of rights adopted in Section 1(1) of this chapter and shall personally give a copy of the signed client bill of rights to each client in hand at the commencement of the counseling relationship.
2. Disclosure Statements
 1. Licensed Clinical Professional Counselors, Licensed Marriage and Family Therapists and Licensed Pastoral Counselors

A licensed clinical professional counselor, licensed marriage and family therapist and licensed pastoral counselor, including a conditional licensee, shall personally give a copy of the disclosure statement to each client in hand at the commencement of the counseling relationship. The disclosure statement consists of the following items:

 - A. The name, license number, business address, business telephone number and business hours of the counselor;
 - B. The counselor’s license category, date of initial licensure, and current license expiration date;
 - C. For each postsecondary degree held by the counselor, the name of the degree, the date the degree was awarded, the area of study in which the degree was earned, and the name of the institution that conferred the degree;
 - D. A statement indicating the limits and scope of confidentiality. The statement must note the following exceptions to confidentiality:
 - (1) Threat of serious harm to self or others;
 - (2) Reasonable suspicion of abuse or neglect of a child, or abuse, neglect or exploitation of an incapacitated or dependent adult;

- (3) Court order;
 - (4) Voluntary release signed by the client or guardian; and
 - (5) During supervisory consultations.
- E. If the counselor is conditionally licensed, a statement to that effect and the following explanation:
- “A conditional licensee has met the initial requirements for this license and is working under professional supervision to obtain the experience necessary for full licensure. The counselor may discuss your case with the supervisor. The counselor may ask you for permission to allow the supervisor to sit in on a session. You are free to refuse if this would make you uncomfortable.”
- F. The areas of competence in which the counselor is licensed;
- G. A general statement outlining a proposed course of treatment, including process of intake, assessment, goal-setting and treatment plan;
- H. The counselor’s fee schedule, method of billing and payment terms;
- I. The extent to which the counselor performs pro bono work or offers sliding scale modifications of the fee schedule; and
- J. Whether the counselor’s services can be paid for by insurance coverage, MaineCare and other third-party payment plans and if so, to what extent.
- K. The following statement:
- “The practice of counseling is regulated by the Board of Counseling Professionals Licensure. The board is authorized by law to discipline counselors who violate the board’s law or rules. To learn about the complaint process, or to file a complaint against a counselor, contact:
- Complaint Coordinator
Office of Licensing and Registration
35 State House Station
Augusta, ME 04333
Tel: (207) 624-8660
Web: www.maine.gov/professionallicensing”

2. Licensed Professional Counselors

A licensed professional counselor, including a conditional licensee, shall personally give a copy of the disclosure statement to each client in hand at the commencement of the counseling relationship. The disclosure statement consists of the following items:

- A. The name, license number, business address, business telephone number and business hours of the counselor;
- B. The counselor's license category, date of initial licensure, and current license expiration date;
- C. For each postsecondary degree held by the counselor, the name of the degree, the date the degree was awarded, the area of study in which the degree was earned, and the name of the institution that conferred the degree;
- D. A statement indicating the limits and scope of confidentiality. The statement must note the following exceptions to confidentiality:
 - (1) Threat of serious harm to self or others;
 - (2) Reasonable suspicion of abuse or neglect of a child, or abuse, neglect or exploitation of an incapacitated or dependent adult;
 - (3) Court order;
 - (4) Voluntary release signed by the client or guardian; and
 - (5) During supervisory consultations.
- E. If the counselor is conditionally licensed, a statement to that effect and the following explanation:

“A conditional licensee has met the initial requirements for this license and is working under professional supervision to obtain the experience necessary for full licensure. The counselor may discuss your case with the supervisor. The counselor may ask you for permission to allow the supervisor to sit in on a session. You are free to refuse if this would make you uncomfortable.”
- F. The areas of competence in which the counselor is licensed;
- G. A general statement outlining a proposed course of counseling, including process of intake, assessment and goal-setting;
- H. The counselor's fee schedule, method of billing and payment terms;

- I. The extent to which the counselor performs pro bono work or offers sliding scale modifications of the fee schedule; and
- J. Whether the counselor’s services can be paid for by insurance coverage, MaineCare and other third-party payment plans and if so, to what extent.
- K. The following statement:

“The practice of counseling is regulated by the Board of Counseling Professionals Licensure. The board is authorized by law to discipline counselors who violate the board’s law or rules. To learn about the complaint process, or to file a complaint against a counselor, contact:

Complaint Coordinator
Office of Licensing and Registration
35 State House Station
Augusta, ME 04333
Tel: (207) 624-8660
Web: www.maine.gov/professionallicensing”

3. Registered Counselors

A registered counselor shall personally give a copy of the disclosure statement to each client in hand at the commencement of the counseling relationship. The disclosure statement consists of the following items:

- A. The name, registration number, business address, business telephone number and business hours of the counselor;
- B. The date the counselor’s registration was initially issued and the current expiration date;
- C. That the licensee is a registered counselor and is not a licensed counselor;
- D. That unlike licensing, there are no educational or training requirements for registration;
- E. For each postsecondary degree held by the counselor, the name of the degree, the date the degree was awarded, the area of study in which the degree was earned, and the name of the institution that conferred the degree;
- F. Major fields of training and expertise not described immediately above;

- G. A statement indicating the limits and scope of confidentiality. The statement must note the following exceptions to confidentiality:
- (1) Threat of serious harm to self or others;
 - (2) Reasonable suspicion of abuse or neglect of a child, or abuse, neglect or exploitation of an incapacitated or dependent adult;
 - (3) Court order;
 - (4) Voluntary release signed by the client or guardian; and
 - (5) During supervisory consultations.
- H. A description of the counselor’s practice;
- I. A general statement outlining a proposed course of counseling, including process of intake, assessment, goal-setting and treatment plan;
- J. The counselor’s fee schedule, method of billing and payment terms;
- K. The extent to which the counselor performs pro bono work or offers sliding scale modifications of the fee schedule; and
- L. Whether the counselor’s services can be paid for by insurance coverage, MaineCare and other third-party payment plans and if so, to what extent.
- M. The following statement:
- “The practice of counseling is regulated by the Board of Counseling Professionals Licensure. The board is authorized by law to discipline counselors who violate the board’s law or rules. To learn about the complaint process, or to file a complaint against a counselor, contact:

Complaint Coordinator
Office of Licensing and Registration
35 State House Station
Augusta, ME 04333
Tel: (207) 624-8660
Web: www.maine.gov/professionallicensing”

3. Additional Obligations of Registered Counselors

A registered counselor shall:

1. Sign the code of ethics adopted as Chapter 8-A of the board's rules;
 2. Personally give a copy of the signed code of ethics to each client in hand at the commencement of the counseling relationship; and
 3. Post a copy of the signed client bill of rights adopted in Section 1(1) of this chapter and the signed code of ethics in a prominent location in the counselor's office.
-

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

514 BOARD OF COUNSELING LICENSURE PROFESSIONALS

Chapter 9 FEES

Summary: This chapter outlines the fees charged by the Board of Counseling Professionals Licensure.

1. [Repealed]

This chapter is repealed in its entirety.

[NOTE: Fees are set by the Director of the Office of Licensing and Registration and are found in Chapter 10 of the rules of the Office of Licensing and Registration, entitled Establishment of License Fees.]

STATUTORY AUTHORITY:

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

514 BOARD OF COUNSELING PROFESSIONALS LICENSURE

Chapter 10 ENFORCEMENT AND DISCIPLINARY PROCEDURES

Summary: This Chapter outlines enforcement and disciplinary procedures as follows:
(1) Denial of Licensure; (2) Complaints; (3) Disciplinary Procedures; and (4)
Reinstatement Following Disciplinary Action.

1. [Repealed]

This chapter is repealed in its entirety.

STATUTORY AUTHORITY:

EFFECTIVE DATE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 1, Definitions [amended]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

On May 23, 2005, the board revamped the portions of its rules dealing with qualifications for licensure, supervised experience and the application process. The impetus for these rule changes, effective July 2, 2005, was enactment of PL 2003, c. 542. Chapter 542 clarified the board's authority to determine the number of academic credit hours necessary for licensure as a licensed professional counselor, licensed clinical professional counselor ("LCPC") and licensed marriage and family therapist ("LMFT"). Revision of the academic qualifications for licensure – which also extended to licensed pastoral counselors – occupied center stage in the 2005 rules revision.

The board realized at the time that it would need to re-visit the parts of its rules that were not included in the 2005 revisions. These included the board's code of ethics, disclosure statements, continuing education, and inactive status licensure. These areas became the focus of the rules

adopted today. In addition, the board also revised the 2005 academic standards for licensure in this rulemaking proceeding.

Turning to the new and amended definitions in Chapter 1: The definition of “client” in Section 1(5) of this chapter includes a person who currently receives counseling from a licensee or did so in the past. Many of the ethical obligations in the amended code of ethics (Chapter 8-A) are couched in terms of the counselor’s duty to a client. The definition clarifies that many of those duties may persist indefinitely beyond the termination of the counselor-client relationship.¹

Bracketed notes have been added to the definitions of “clinical counseling experience” and “counseling experience” in Section 1(6) and (11), respectively, to clarify that “clinical counseling experience” applies to LCPCs, LMFTs and pastoral counselors and that “counseling experience” applies to licensed professional counselors. The purpose of the notes is to emphasize the distinction between clinical vs. nonclinical license categories discussed at length in *Cobb v. Board of Counseling Professionals Licensure*, 2006 ME 48.

The definition of “continuing education” in Section 1(9) is re-worded to emphasize that continuing education activities must be directly related to the theory and practice of professional counseling in order to be accepted by the board.

The definition of “direct counseling” in Section 1(12-A) of this chapter relates to the requirement in Chapter 2, Section 4, that the supervised experience of conditional LPCs include a minimum of 1,000 hours of direct counseling with individuals, couples, families or groups.

An earlier version of the board’s rules included “good moral character” as a criterion for licensure as a registered counselor. Chapter 5-A does not include “good moral character” as a requirement for licensure. The definition, former Section 1(15) of this chapter, has accordingly been deleted. The defined term “AAPC” (American Association of Pastoral Counselors) is not used in the rules and has also been deleted.

The definition of “peer consultation” in Section 1(15-A) relates to the peer consultation component of continuing education in Chapter 7-A, Section 2(1). The predecessor definition of “peer supervision” was inadvertently not carried forward from the 2005 rule amendments and is reinstated here.

The expanded definition of “sexual activity” in Section 1(19) of this chapter is based on the joint sexual misconduct rule of the Board of Licensure in Medicine and the Board of Osteopathic Licensure.² The expanded definition contains a greater number of specific examples than the predecessor definition. These especially include examples of sexual speech that are inappropriate in a counseling relationship. The definition has also been re-formulated into “Level 1” and “Level 2” sexual activity. In the context of the sexual relationships prohibited by the amended code of ethics (Chapter 8-A, Section 4), Level 1 conduct is more objectionable than Level 2 conduct, and may be expected to lead to more severe disciplinary action depending on the facts and circumstances of the particular case.

¹ As the board complaint officer testified in one adjudicatory proceeding, “Once a client, always a client.”

² Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure.

The definition of “supervision” in Section 1(20) is amended by striking the word “conditional” as shown:

“Supervision” means a continuous process performed by a supervisor who monitors the professional practices of a ~~conditional~~ licensee through regular, documented, face-to-face consultation and instruction for the purpose of evaluating and enhancing the function of the supervisee and monitoring the quality of professional services offered to clients.

This change acknowledges that any licensee may be subject to disciplinary supervision.

Section 1(23) of the board’s predecessor rules contained a lengthy definition of “supervisor” that set forth the necessary qualifications for this role. The Attorney General’s office advised the board that this definition was substantive in nature, and recommended that the qualifications for serving as supervisor be re-located to the separate chapters dealing with licensure of licensed professional counselors, LCPCs, LMFTs and pastoral counselors. The board accepted this recommendation. The definition of “supervisor” in the adopted rules has been shortened to read:

“Supervisor” is a person who provides supervision and meets the qualifications set forth in the board’s rules.

Qualifications for supervisor now appear in Chapter 2, Section 4 (licensed professional counselors), Chapter 3, Section 4(3) (LCPCs), Chapter 4, Section 4(3) (LMFTs) and Chapter 5, Section 5 (pastoral counselors).

In these relocated sections, licensed master social workers-conditional (clinical) are removed from the list of professionals in former Section 1(23) who can supervise conditional licensees of the board. Only fully-licensed clinicians (including licensed clinical social workers and certified social workers-independent practice) are qualified to supervise conditionally-licensed counselors. The additional criterion for supervisor status in former Section 1(23)(A)(3) is also amended in Chapters 2-5 of the current rules to read:

~~30~~Thirty contact ~~clock~~ hours of training in supervision and a minimum of one year of licensed practice at a licensure level higher than entry-level conditional; or

This change ensures that a supervisor qualifying by way of training in supervision has actual practice experience.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 1-A, Advisory Rulings [new]

STATUTORY AUTHORITY: 5 MRSA §§8051, 9001(4)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The Maine Administrative Procedure Act requires each board or agency with rulemaking authority to adopt rules for the submission, consideration and disposition of requests for advisory rulings.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 2, Licensed Professional Counselors [amended]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

One of the most frequent questions asked of board staff is, "What can a licensed professional counselor/LCPC/ LMFT/pastoral counselor do?" To provide a base line level of guidance, the four chapters dealing with the four license categories all lead off with a scope of practice summary such as that found in Section 1 of this chapter.

The description of alternative experience following Section 2(1)(C)(10) of this chapter has been amended by the qualifier of "lawfully obtained" supervised counseling experience. The new language responds to the board's experience in license denial situations where an applicant attempted to claim credit for counseling experiences for which the applicant was not properly credentialed.

The amendments to this chapter significantly affect applicants who apply for licensure on the basis of a nonconforming graduate degree (i.e., 36 hours instead of 48 hours). In Section 2(2)(B) of this chapter and the unnumbered paragraph immediately following, these amendments shift focus from the supplemental coursework completed by the applicant to an overall consideration of the applicant's entire graduate education. The board also dropped the requirement that a person applying on the basis of a nonconforming degree obtain a certification from the educational institution that the supplemental coursework completed by the applicant satisfies the core curriculum requirements of this chapter. Applicants were frequently unable to obtain this certification from the educational institution, and the board is able to evaluate applicants' academic qualifications without it.

The most important amendment to this chapter is elimination of the January 1, 2009 end date for applying for licensure on the basis of a 36 semester hour nonconforming degree. The 2005 rulemaking proceeding upgraded the educational requirement for licensure from a 36 semester hour masters degree to a 48 semester hour masters degree. The board allowed a 3½ year window for applicants with a 36 hour degree to complete supplemental coursework to the 48 hour equivalent. After January 1, 2009, applicants with a 48 hour nonconforming degree would be permitted to cure deficiencies, but applicants with a nonconforming degree of less than 48 hours would be barred from licensure entirely on the basis of that degree.

The rationale for the January 1, 2009 end date was that an accredited 48 hour masters degree was the preferred path of education preparation for licensure; that the number of 36 hour graduate programs was shrinking; and that future clients of new licensed professional counselors would be better served by counselors who had completed an integrated 48 hour program as opposed to counselors who had completed a 36 hour program with an additional 12 hours bolted on afterwards. Three-and-a-half years seemed to be an appropriate interim period during which prospective applicants would be permitted to supplement 36 hour degrees. After this window closed on January 1, 2009, only applicants who had completed an integrated 48 hour degree would be eligible for licensure.

Very few persons have been licensed as licensed professional counselors since the 2005 change in educational requirements. And the board has no information specific to applicants that requires any further change to this chapter. However, the board in this rulemaking proceeding eliminated from Chapter 3 of its rules a sunset deadline for LCPC applicants who have not completed an integrated 60 semester hour masters degree by January 1, 2011. In the interest of consistency, the board likewise decided to eliminate from this chapter the January 1, 2009 end date for supplementing a 36 semester hour masters degree in order to qualify for licensure as a licensed professional counselor.

To sum up this part of the discussion: The requirement that applicants with a 36 hour masters degree supplement their degree to the 48 hour level remains in effect. As a result of this rulemaking proceeding, this pathway to licensure will remain in effect indefinitely.

The board deleted from Section 3 the sentence, "An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation." Retake policies are usually set by the examination vendor.

The board also amended provisions of this chapter relating to the 2000 hours of supervised experience that applicants must complete in order to qualify for full licensure. Section 4 of this chapter requires that supervision be shall occur with substantial regularity throughout the supervised experience. This change prevents a supervisor from providing little supervision during the bulk of the traineeship and loading up supervision hours at the tail end. Section 4 also seeks to expand the availability of supervisors for individual supervision by permitting up to half the amount of mandatory individual supervision to take place via live audio conference or live videoconference.

Ordinarily, supervised experience is completed during the period of conditional licensure. An amendment to Section 5 of this chapter permits the board to waive conditional licensure in whole or in part where an applicant has completed “supervised experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 4 of this chapter.” This might occur when an applicant has completed a supervised counseling experience in another state or under another equivalent license. For example, an individual may have completed 1000 hours in another state, and then decided to apply for licensure in Maine. This amendment permits the board to credit those hours towards the 2000 hours of supervised experience required for licensure.

Finally, consistent with the waiver provision noted above, the rule provisions dealing with supervised experience have been removed from the Conditional Licensure section of this chapter and now appear as a self-standing section entitled Supervised Experience.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 3, Licensed Clinical Professional Counselors [amended]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

One of the most frequent questions asked of board staff is, "What can a licensed professional counselor/LCPC/ LMFT/pastoral counselor do?" To provide a base line level of guidance, the four chapters dealing with the four license categories all lead off with a scope of practice summary such as that found in Section 1 of this chapter.

The description of alternative experience following Section 2(1)(B)(10) of this chapter has been amended by the qualifier of "lawfully obtained" supervised counseling experience. The new language responds to the board's experience in license denial situations where an applicant attempted to claim credit for counseling experiences for which the applicant was not properly credentialed.

Older masters degree programs typically included a 600 hour internship instead of the 900 hour internship required by Section 2(1)(B)(10) of this chapter. It is not feasible for applicants to make up this deficiency through supplemental graduate level coursework as permitted by Section 2(3)(B) of this chapter. The board's response is to recognize the qualifying degree of an applicant who has (a) completed a practicum and (b) completed a clinical internship of at least 600 hours, but to require this applicant to complete an additional 1,000 hours – 4,000 instead of 3,000 – of supervised experience. See Section 4(2) of this chapter.

The board cannot overstate the importance of a complete internship in the development of practice skills. The intensity of this training is reflected in the equivalency described above: 1,000 hours of additional supervised experience after licensure to compensate for a deficiency of 300 hours of clinical internship prior to licensure. In the opinion of the board, this trade-off will enable otherwise-qualified applicants to become licensed LCPCs without compromising standards of client care.

The amendments to this chapter significantly affect applicants who apply for licensure on the basis of a nonconforming graduate degree (i.e., at least 36 hours but less than 60 hours). In Section 2(3)(B) of this chapter and the unnumbered paragraph immediately following, these amendments shift focus from the supplemental coursework completed by the applicant to an overall consideration of the applicant's entire graduate education. The board also dropped the requirement that a person applying on the basis of a nonconforming degree obtain a certification from the educational institution that the supplemental coursework completed by the applicant satisfies the core curriculum requirements of this chapter. Applicants were frequently unable to obtain this certification from the educational institution, and the board is able to evaluate applicants' academic qualifications without it.

The most important amendment to this chapter is the elimination of the January 1, 2011 end date for applying for licensure on the basis of a 36 semester hour nonconforming degree.

The 2005 rulemaking proceeding upgraded, in three steps, the educational requirement for licensure as an LCPC. Until January 1, 2009, a person can be licensed on the basis of a 48 hour masters degree. An applicant with a minimum 36 hour masters degree can, until that date, be licensed on the basis of sufficient supplemental coursework to meet the 48 hour standard. On January 2, 2009, the educational requirement rises to a 60 hour masters degree. An applicant with a minimum 36 hour masters degree can, until January 1, 2011, be licensed on the basis of sufficient supplemental coursework to meet the 60 hour standard. But after January 1, 2011, a 60 hour masters degree will be required of all applicants, and no opportunity to supplement a minimum 36 hour masters degree will be provided. An applicant with a 60 hour nonconforming degree will be permitted to cure deficiencies, but applicants with a nonconforming degree of less than 60 hours will be barred from licensure entirely on the basis of that degree.

The board thus allowed a 5½ year window – from July 2005 to January 2011 – for applicants with a 36 hour degree to complete supplemental coursework to the 60 hour level. The rationale for the January 1, 2011 end date was that an accredited 60 hour masters degree was the preferred path of education preparation for licensure; that 36 hour programs had disappeared and the number of 48 hour graduate programs was shrinking; and that future clients of new LCPCs would be better served by counselors who had completed an integrated 60 hour program as

opposed to counselors who had completed a 36 or 48 hour program with an additional 12 or 24 hours bolted on afterwards. Five-and-a-half years seemed to be an appropriate interim period during which prospective applicants would be permitted to supplement 36 hour degrees. After this window closed on January 1, 2011, only applicants who had completed an integrated 60 hour degree would be eligible for licensure.

As of this writing, the closing of this window is less than 1½ years away. What the board has seen so far suggests that some applicants will not meet the 60 hour standard once it goes into full effect on January 1, 2011.

Some applicants for the LCPC license have not graduated with 60 hour masters degrees. For example, applicants may have completed other programs with 52 or 57 graduate credits. Currently, such applicants are eligible for licensure under the 48 hour standard now in effect. From January 2, 2009 to January 1, 2011, such applicants have the opportunity to show supplemental course work sufficient to meet the 60 hour standard. But graduates with 52 or 57 credits will be ineligible for licensure after January 1, 2011 unless they complete a second masters degree program that does meet the 60 hour standard.

For these reasons, the board in this rulemaking proceeding amended Chapter 3 by eliminating the January 1, 2011 end date for supplementing a 36 semester hour masters degree in order to qualify for licensure as a LCPC. The requirement of 60 hours of graduate education will remain in effect. However, the January 1, 2011 deadline for supplementing to that level will no longer apply. As a result of this rulemaking proceeding, the option of supplementing a minimum 36 hour masters degree to 60 semester hours will remain in effect indefinitely.

The board deleted from Section 3(1) and (2) the sentence, “An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.” Retake policies are usually set by the examination vendor.

The board also amended provisions of this chapter relating to the 3,000 hours of supervised experience that applicants must complete in order to qualify for full licensure. Section 4 of this chapter requires that supervision shall occur with substantial regularity throughout the supervised experience. This change prevents a supervisor from providing little supervision during the bulk of the traineeship and loading up supervision hours at the tail end. Section 4 also seeks to expand the availability of supervisors for individual supervision by permitting up to half the amount of mandatory individual supervision to take place via live audio conference or live videoconference.

Ordinarily, supervised experience is completed during the period of conditional licensure. An amendment to Section 5 of this chapter permits the board to waive conditional licensure in whole or in part where an applicant has completed “supervised clinical experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 4 of this chapter.” This might occur when an applicant has completed a supervised clinical counseling experience in another state or under another equivalent license. For example, an individual may have completed 2000 hours in another state, and then decided to apply for licensure in Maine. This amendment permits the board to credit those hours towards the 3000 hours of supervised experience required for licensure.

Finally, consistent with the waiver provision noted above, the rule provisions dealing with supervised experience have been removed from the Conditional Licensure section of this chapter and now appear as a self-standing section entitled Supervised Experience.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 4, Licensed Marriage and Family Therapists [amended]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

One of the most frequent questions asked of board staff is, "What can a licensed professional counselor/LCPC/ LMFT/pastoral counselor do?" To provide a base line level of guidance, the four chapters dealing with the four license categories all lead off with a scope of practice summary such as that found in Section 1 of this chapter.

Older masters degree programs that typically included a 600 hour internship instead of a 900 hour internship required by Section 2(1)(C)(9) of this chapter. It is not feasible for applicants to make up this deficiency through supplemental graduate level coursework as permitted by Section 2(3)(B) of this chapter. The board's response is to recognize the qualifying degree of an applicant who has (a) completed a practicum and (b) completed a clinical internship of at least

600 hours, but to require this applicant to complete an additional 1,000 hours – 4,000 instead of 3,000 – of supervised experience. See Section 4(2) of this chapter.

The board cannot overstate the importance of a complete internship in the development of practice skills. The intensity of this training is reflected in the equivalency described above: 1,000 hours of additional supervised experience after licensure to compensate for a deficiency of 300 hours of clinical internship prior to licensure. In the opinion of the board, this trade-off will enable otherwise-qualified applicants to become licensed LMFTs without compromising standards of client care.

The amendments to this chapter significantly affect applicants who apply for licensure on the basis of a nonconforming graduate degree (i.e., at least 36 hours but less than 60 hours) after January 1, 2009. In Section 2(3)(B) of this chapter and the unnumbered paragraph immediately following, these amendments shift focus from the supplemental coursework completed by the applicant to an overall consideration of the applicant's entire graduate education. The board also dropped the requirement that a person applying on the basis of a nonconforming degree obtain a certification from the educational institution that the supplemental coursework completed by the applicant satisfies the core curriculum requirements of this chapter. Applicants were frequently unable to obtain this certification from the educational institution, and the board is able to evaluate applicants' academic qualifications without it.

The most important amendment to this chapter is the elimination of the January 1, 2011 end date for applying for licensure on the basis of a 36 semester hour nonconforming degree.

The 2005 rulemaking proceeding upgraded, in three steps, the educational requirement for licensure as an LMFT. Until January 1, 2009, a person can be licensed on the basis of a 48 hour masters degree. An applicant with a minimum 36 hour masters degree can, until that date, be licensed on the basis of sufficient supplemental coursework to meet the 48 hour standard. On January 2, 2009, the educational requirement rises to a 60 hour masters degree. An applicant with a minimum 36 hour masters degree can, until January 1, 2011, be licensed on the basis of sufficient supplemental coursework to meet the 60 hour standard. But after January 1, 2011, a 60 hour masters degree will be required of all applicants, and no opportunity to supplement a minimum 36 hour masters degree will be provided. An applicant with a 60 hour nonconforming degree will be permitted to cure deficiencies, but applicants with a nonconforming degree of less than 60 hours will be barred from licensure entirely on the basis of that degree.

The board thus allowed a 5½ year window – from July 2005 to January 2011 – for applicants with a 36 hour degree to complete supplemental coursework to the 60 hour level. The rationale for the January 1, 2011 end date was that an accredited 60 hour masters degree was the preferred path of education preparation for licensure; that 36 hour programs had disappeared and the number of 48 hour graduate programs was shrinking; and that future clients of new LMFTs would be better served by counselors who had completed an integrated 60 hour program as opposed to counselors who had completed a 36 or 48 hour program with an additional 12 or 24 hours bolted on afterwards. Five-and-a-half years seemed to be an appropriate interim period during which prospective applicants would be permitted to supplement 36 hour degrees. After this window closed on January 1, 2011, only applicants who had completed an integrated 60 hour degree would be eligible for licensure.

As of this writing, the closing of this window is less than 1½ years away. What the board has seen so far suggests that some applicants for the *LCPC* license will not meet the 60 hour standard once it goes into full effect on January 1, 2011.

For the reason discussed in the Basis Statement for Chapter 3 of its rules, the board in this rulemaking proceeding amended Chapter 3 by eliminating the January 1, 2011 end date for supplementing a 36 semester hour masters degree in order to qualify for licensure as a *LCPC*. To maintain consistency between *LCPCs* and *LMFTs*, the board is removing the January 1, 2011 end date for *LMFT* applicants from Chapter 4 of its rules. The requirement of 60 hours of graduate education for licensure as a *LMFT* will remain in effect. However, the January 1, 2011 deadline for supplementing to that level will no longer apply. As a result of this rulemaking proceeding, the option of supplementing a minimum 36 hour masters degree to 60 semester hours will remain in effect indefinitely.

The board deleted from Section 3 the sentence, “An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation.” Retake policies are usually set by the examination vendor.

The board also amended provisions of this chapter relating to the 3,000 hours of supervised experience that applicants must complete in order to qualify for full licensure. Section 4 of this chapter requires that supervision shall occur with substantial regularity throughout the supervised experience. This change prevents a supervisor from providing little supervision during the bulk of the traineeship and loading up supervision hours at the tail end. Section 4 also seeks to expand the availability of supervisors for individual supervision by permitting up to half the amount of mandatory individual supervision to take place via live audio conference or live videoconference.

Ordinarily, supervised experience is completed during the period of conditional licensure. An amendment to Section 5 of this chapter permits the board to waive conditional licensure in whole or in part where an applicant has completed “supervised clinical experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 4 of this chapter.” This might occur when an applicant has completed a supervised clinical counseling experience in another state or under another equivalent license. For example, an individual may have completed 2000 hours in another state, and then decided to apply for licensure in Maine. This amendment permits the board to credit those hours towards the 3000 hours of supervised experience required for licensure.

Consistent with the waiver provision noted above, the rule provisions dealing with supervised experience have been removed from the Conditional Licensure section of this chapter and now appear as a self-standing section entitled Supervised Experience.

Finally, Section 6 of this chapter incorporates the new temporary conditional *LMFT* license created by PL 2009, c. 172. By statute, the license is limited to a 6-month period during which the temporary licensee must apply for and pass the Marital and Family Therapy Examination. Section 6 requires the applicant to pay the ordinary conditional license fee. If the temporary licensee submits proof of a passing score obtained within this period, OLR will issue that person

an ordinary conditional license without payment of an additional fee. Supervision is to continue under the conditional license without interruption.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 5, Licensed Pastoral Counselors [amended]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

One of the most frequent questions asked of board staff is, "What can a licensed professional counselor/LCPC/ LMFT/pastoral counselor do?" To provide a base line level of guidance, the four chapters dealing with the four license categories all lead off with a scope of practice summary such as that found in Section 1 of this chapter.

The board deleted from Section 4(1) and (2) the sentence, "An applicant who fails to achieve a passing score may retake the examination at subsequent sittings without limitation." Re-take policies are usually set by the examination vendor.

The board also amended provisions of this chapter relating to the 3,000 hours of supervised experience that applicants must complete in order to qualify for full licensure. Section 4 of this chapter requires that supervision shall occur with substantial regularity throughout the supervised

experience. This change prevents a supervisor from providing little supervision during the bulk of the traineeship and loading up supervision hours at the tail end. Section 4 also seeks to expand the availability of supervisors for individual supervision by permitting up to half the amount of mandatory individual supervision to take place via live audio conference or live videoconference.

Finally, for consistency with Chapters 2, 3 and 4 of the board's rules, the rule provisions dealing with supervised experience have been removed from the Conditional Licensure section of this chapter and now appear as a self-standing section entitled Supervised Experience.

Ordinarily, supervised experience is completed during the period of conditional licensure. An amendment to Section 6 of this chapter permits the board to waive conditional licensure in whole or in part where an applicant has completed "supervised experience lawfully obtained following attainment of the qualifying degree that is substantially equivalent to the supervised experience required by Section 5 of this chapter." This might occur when an applicant has completed a supervised counseling experience in another state. For example, an individual may have completed 2000 hours in another state, and then decided to apply for licensure in Maine. This amendment permits the board to credit those hours towards the 3000 hours of supervised experience required for licensure.

For pastoral counselors, the 400 hours of clinical pastoral education required by 32 MRSA §13858(3-A) is the counterpart to the academic internship required by Sections 2, 3 and 4 of the board's rules for LPCs, LCPCs and LMFTs, respectively. Prior to amendment of the board's rules in 2005, Chapter 2, Section 4(A)(2) required that applicants for licensure as pastoral counselors demonstrate completion of "[o]ne (1) unit of four-hundred (400) contact hours in clinical pastoral education as part of a program accredited by the Association [for] Clinical Pastoral Education or its equivalent." In the 2005 amendments this requirement, relocated to Chapter 5, Section 2(2)(F), was altered to read, "One unit of 400 contact hours in clinical pastoral education in a program accredited by ACPE."

The unexplained omission of the phrase "or its equivalent" in the 2005 amendments later became significant when an applicant who trained as a Buddhist teacher and counselor applied for licensure as a pastoral counselor. ACPE has not accredited clinical counseling programs affiliated with Eastern religions. It was never the board's intent to bar members of any faith from licensure as a pastoral counselor. The board in this rulemaking proceeding amended Section 2(2)(F) to recognize accrediting organizations other than ACPE and to recognize unaccredited programs that reflect Eastern-style religious or spiritual training.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 5-A, Registered Counselors [new]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The 2005 rulemaking proceedings inadvertently repealed former Chapter 3 of the board's rules, dealing with Registered Counselors. This chapter reinstates limited provisions relating to the scope of practice and obligations of registered counselors. This chapter re-states statutory requirements relating to a registered counselor's obligation to: (i) adhere to the Code of Ethics contained in Chapter 8-A of the board's rules; (ii) distribute the disclosure statement described in Chapter 8-B of the board's rules; and (iii) display and observe the client bill of rights described in Chapter 8-B of the board's rules.

PL 2007, c. 621 prohibited the issuance of new registrations after August 1, 2008. This license is now issued on a renewal basis only. For this reason the board deleted the qualifications for registration from this chapter.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 6, Applications / Applicants Licensed in Another Jurisdiction [amended]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The board removed the requirement that an applicant complete the application process for a full license within a period of one year from the date the applicant completes the supervised experience required by the board's rules. Very few applicants wait a year to apply for full licensure.

The board revised Section 2 of this chapter, Applicants Trained In A Foreign Country, to specifically mention several acceptable transcript evaluation services of proven reliability.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 7, License Renewal; Inactive Status [repealed and replaced]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The repeal and replacement of this chapter conforms the board's renewal procedures to current practice of the Office of Licensing and Registration for all programs.

Section 1(E) of the predecessor chapter dealt with reinstatement of an expired license within 90 days of the date of expiration. This provision has not been carried forward into the new rules because 90-day late renewal is comprehensively addressed in Chapter 11 of the rules of the Office of Licensing and Registration, entitled Late Renewals.

The provisions in the predecessor chapter relating to inactive status licensure and reinstatement to active status have been re-written for consistency with 32 MRSA §13864 and 10 MRSA §8003(5-A)(D)(5).

The predecessor chapter barred a licensee from applying for inactive status within 6 months of license expiration. The new rule permits a licensee to apply for inactive status within 6 months of license expiration if the licensee has completed the continuing education required for the license biennium. This change opens the 6-month window for inactive status licensure that was closed under the predecessor chapter while emphasizing that inactive status cannot be used to circumvent the continuing education requirement.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 7-A, Continuing Education [new]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

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ANALYSIS AND EXPECTED OPERATION OF THE RULE:

This chapter substantially revises the continuing education provisions formerly contained in Chapter 8, Section 4 of the board's predecessor rules. This chapter leaves the overall number of continuing education hours required for biennial renewal unchanged at 55 but, in general, affords licensees more flexibility in choosing continuing education activities.

Under the predecessor chapter, the only required components of the 55-hour total were 15 hours of peer supervision and 4 hours of ethics. This chapter permits additional options within the former peer supervision component under the broader umbrella of "peer consultation," but no longer requires counselors to participate in peer consultation as a requirement for renewal. Under this chapter, up to 15 hours of peer consultation is optional.

The 4 hour ethics requirement remains in place. This chapter also adds an additional subject-matter requirement within the 55-hour total: 4 hours of continuing education in domestic violence, substance abuse or emotional trauma. The prevalence of these issues in client presentations merits special attention in continuing education.

The predecessor chapter recognized for continuing education purposes “a formal home study program which is sanctioned by an independent education agency.” The predecessor chapter also permitted licensees to earn up to 5 hours in “informal study or home study programs carried out individually.”

The current reality is that formal home study now means CD- or internet-based learning experiences. This chapter explicitly recognizes “formal home study courses and on line, internet and other distance learning programs” for continuing education credit with no maximum hours limitation. Informal home study or prerecorded programs, combined remain subject to the 5 hour limit in the predecessor chapter.

For continuing education credit earned for books or journal articles, the license period for which credit can be claimed will henceforth be the biennium during which the work was accepted for publication instead of the biennium during which the work was published. This chapter also prohibits conditional licensees from earning continuing education credit for field supervision of interns and eliminates the repetition restriction for continuing education credit earned by teaching a course.

To be recognized for continuing education credit, continuing education activities must directly relate to the theory and practice of professional counseling. For the guidance of licensees (and to hopefully reduce the frequency of audit disallowances), this chapter also lists examples of activities which do not meet this standard.

This chapter also reflects the OLR boards’ move to an audit model for verifying licensees’ compliance with the continuing education requirement. It is no longer necessary for licensees to submit proof of completion with renewal applications. However, licensees will be required to document completion if they are selected for audit.

Finally, this chapter removes the hardship deferment provision from the predecessor rule. The board will rely solely on 32 MRSA §8003(5-A)(D)(4) to issue continuing education deferments in cases of undue hardship.

FISCAL IMPACT OF THE RULE: None

<p><i>FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:</i></p> <p>ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:</p> <p>INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:</p> <p>BENEFITS OF THE RULE:</p>
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Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 8, Standards of Practice [repealed]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

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ANALYSIS AND EXPECTED OPERATION OF THE RULE:

This chapter is repealed in its entirety. The subject matter of this chapter has been relocated to the following replacement chapters:

Disclosure Statement (Section 1)..... Chapter 8-B, Section 1
Client Bill of Rights (Section 2) Chapter 8-B, Section 2
Code of Ethics (Section 3) Chapter 8-A
Continuing Education (Section 4)..... Chapter 7-A

FISCAL IMPACT OF THE RULE: None

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ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 8-A, Code of Ethics [new]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

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ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The board substantially revised selected areas of the code of ethics that formerly appeared in Chapter 8, Section 3 of the board's predecessor rules. These areas are: dual relationships of a general nature; sexual activity; records; and confidentiality.

Dual relationships of a general nature. The prohibition against dual relationships of a general nature in the predecessor rule was limited to interactions between the counselor and the client. This is extended in Section 2(1) of this chapter to the counselor's interaction with the spouse or partner of a client. This extension is based on revisions to the prohibition on sexual activity discussed below, and protects the counseling relationship from disruption by the counselor's associations with the spouse or partner of the client. This extension is also generally consistent

with corresponding provisions in the 2005 American Counseling Association Code of Ethics, §A.5.c (hereinafter, “ACA Code”).¹

The predecessor rule prohibited dual relationships which *may* impair the counselor’s judgment or pose a risk of exploitation to the client. This chapter adopts the more rigorous standard of the 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association, §3.05 (hereinafter, “APA Code): this is, that the other relationship be one *which could reasonably be expected to* impair or diminish the professional judgment, objectivity or effectiveness of the counselor, or pose of risk of harm to or exploitation of the client. Like the APA Code, this chapter expressly acknowledges the converse: that dual relationships which could not reasonably be expected to cause impairment, harm or exploitation are not a violation.

What might these permissible dual relationships be? ACA Code §A.5.d gives the following examples of “potentially beneficial interactions:”

...Attending a formal ceremony (e.g., a wedding/commitment ceremony or graduation); purchasing a service or product provided by a client or former client (excepting unrestricted bartering); hospital visits to an ill family member; mutual membership in a professional association, organization, or community.

Sexual activity. “Sexual activity” is defined in Chapter 1, Section 1(19).² This chapter, in Section 5(2)–(4), describes categories of individuals with whom, and periods during which, counselors may not engage in sexual activity.

The predecessor rule contained a bright line prohibition against sexual activity with a client within two years after termination of the client relationship, and required the counselor to thoroughly examine the potential for exploitation and adverse impact before engaging in a sexual relationship with a client after expiration of the 2-year period. The prohibition covered sexual activity with a client, trainee, student, or research subject.

A disciplinary proceeding decided by the board in March 2005 revealed shortcomings in the predecessor rule. The case arose from marital counseling. After eleven sessions, counseling ended. About a month after the last session, the wife filed for divorce. About three years after the last session, the counselor and the by-then former husband engaged in sexual activity. The wife learned that her former marriage counselor was dating her former husband about three years, four months after the last counseling session.

At hearing, the counselor argued that the client was the marriage, not the two individuals within it, and that once the marriage ended, there was no longer a client. The board rejected this argument. However, the debate points out the lack of any prohibition in the predecessor rule against sexual activity between a counselor and the spouse or partner of a client.

¹ Title 32 MRSA §13853(11) states, “The board shall adopt a code of ethics generally in keeping with standards established by the national professional associations concerned with the areas of board responsibility.”

² See also the Statement of Fact accompanying Chapter 1.

The board disciplined the counselor for failing to thoroughly examine the impact of the counselor's action on the client wife. Yet those members of the board today who heard the case believe that much of the pain experienced by the wife as a result of the counselor's action would have occurred regardless of whether the wife was a client. Furthermore, the basis of the violation under the predecessor rule was not that the counselor actually caused harm to the wife – only that the counselor had not thoroughly examined the possibility of harm. In addition, the effects of the counselor's action were so traumatizing to the wife as to call into question the effectiveness of the 2-year bright line prohibitory period, regardless of how thoroughly the counselor might have examined the impact of the romantic relationship beyond that point.

The board believes that the counselor's duty to (a) objectively render services, (b) avoid injury to the mental health of others, and (c) promote public confidence in the bona fides of the counseling relationship, demands greater protection of the client than the current rule provides. The new rule extends the prohibition against sexual activity to the spouse or partner of a client and an adult child or stepchild of the client. For the client, spouse or partner of a client, the bright-line prohibitory period is extended to five years. After five years, the counselor bears the burden of documenting – not merely examining – that sexual activity with the client, spouse or partner of the client will not be of an exploitive nature or have an adverse impact on the client.³ If a disciplinary action is filed against the counselor arising out of such sexual activity, the counselor's determination of no exploitation and no adverse impact is reviewable by the board.

There is less potential for harm to a client from a counselor's sexual activity with an adult child or stepchild of the client. For this reason, there is no bright-line prohibitory period for such activity. However, before commencing such a relationship the counselor must document that the relationship is not of an exploitive nature and will not have an adverse impact on the client. If a disciplinary action is filed against the counselor arising out of such sexual activity, the counselor's determination of no exploitation and no adverse impact is reviewable by the board.

The predecessor rule subjected sexual activity between a counselor and a trainee, student or research subject to the same restrictions as sexual activity with a client (i.e., not at all through the first two years subsequent to the close of the counseling relationship, and subject to the counselor's examination for exploitation and adverse impact thereafter). With respect to trainees (supervisees), students and research subjects, the potential harm is exploitation by a counselor of the junior partner in a controlling relationship: supervisor-supervisee, student-teacher, researcher-subject. This potential for harm vanishes once the supervision, academic course or research project ends. The new rule accordingly prohibits sexual activity between a counselor and a supervisee, student or research subject only during the time the controlling relationship exists.

³ The 1994 Code of Ethics of the American Association of Pastoral Counselors prohibits all sexual behavior with former clients. (§III(H) In the ACA Code, the bright line prohibitory period for “sexual or romantic counselor-client relationships with former clients, their romantic partners, or their family members” is five years. (§A.5.b) In the APA Code (§10.08(a)), the 2001 Code of Ethics of the American Association for Marriage and Family Therapy (§1.5), the 2000 Code of Ethics of the American Mental Health Counselors Association (§1(H)), and the 2005 National Board for Certified Counselors Code of Ethics (§A(10), the bright line prohibitory period for sexual intimacies with former clients is two years. There is no bright line prohibitory period in the 1999 Code of Ethics of the National Association of Social Workers (see §1.090).

Records. The predecessor rule required counselors to store and dispose of client records in a way that maintains security and confidentiality, but did not specify a retention period. Section 5 of this chapter requires records to be kept for at least five years after the last counselor/client contact. This chapter also requires counselors to maintain client records that completely and accurately document: (a) counseling provided by the counselor to the client, (b) client progress, (c) contacts and communications between counselor and client that relate to the provision of counseling to the client, and (d) communications between the counselor and persons other than the client that relate to the counselor's provision of counseling to the client. Finally, this chapter references statutory obligations relating to client access to client health care records that are often overlooked.

Confidentiality. Chapter 8, §3(D) of the predecessor rule contained a general principle of confidentiality, described the general need for client consent to release of confidential information to others, and described situations when the counselor could release confidential information without client consent.

The confidentiality of health care information and the disclosure of confidential health care information are comprehensively addressed in 22 MRSA §1711-C and 32 MRSA §13862. Section 6 of this chapter frames the counselor's responsibility to protect confidential client information in terms of this statutory obligation. Section 6 also provides that violation of specific confidentiality obligations relating to substance abuse services and HIV infection status may subject a counselor to discipline by the board.

Couples and family counseling presents unique challenges to maintenance of client confidentiality. There may be multiple recipients of services; the counselor may call on other family or household members for information; and there may be objection to the counselor's sharing of confidential information of any one recipient with the others. To deal with this situation, Section 6 of this chapter requires the counselor to discuss, determine and document who the clients are, and to then discuss and reach agreement with the clients as to how information may be shared among them and with others.

To address the potential for conflict that may arise in a multiple client situation, the last sentence of Section 2 of this chapter adapts the following sentence from ACA Code §A.7:

In couples and family counseling, if it becomes apparent that the counselor maybe called upon to perform potentially conflicting roles, the counselor must clarify, adjust or withdraw from roles appropriately.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 8-B, Client Bill of Rights; Disclosure Statements [new]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

This chapter replaces the disclosure statement and client bill of rights formerly contained in Chapter 8, Sections 1 and 2, respectively, of the board's predecessor rules.

The client bill of rights is substantively unchanged except for the addition of contact information for the OLR complaint office. This addition is an outgrowth of 32 MRSA §13863(3)(C), which requires registered counselors to sign, post and make available to each client... "the name and address of the board's complaint officer and a description of the complaint process."¹ The board has integrated this information into the client bill of rights which must be provided by licensed as

¹ The OLR complaint coordinator, not the board's complaint officer, is the intake person for complaints against licensed or registered counselors.

well as registered counselors. This chapter also restates the signature requirement for registered counselors stated in 32 MRSA §13863(3)(A).

Title 32 MRSA §13853(13) provides in relevant part:

13. Disclosure statements. Under this chapter all licensees and registrants are required to provide disclosure statements prior to treatments. The board may adopt, by rule, a standard disclosure statement. This disclosure statement must include, but not be limited to, the name and address of the licensee or registrant, the original date and the expiration date of the license, the proposed course of treatment and financial arrangements for clients.

This chapter contains three variations of a standard disclosure statement: one for licensed professional counselors, one for LCPCs, LMFTs and pastoral counselors, and one for registered counselors. The only difference between the disclosure statement for licensed professional counselors and the disclosure statement for LCPCs, LMFTs and pastoral counselors is the following:

Licensed Professional Counselor

G. A general statement outlining a proposed course of counseling, including process of intake, assessment and goal-setting;

LCPC/LMFT/Pastoral Counselor

G. A general statement outlining a proposed course of treatment, including process of intake, assessment, goal-setting and treatment plan;

For licensed professional counselors, “proposed course of counseling” has been substituted for the statutory phrase, “proposed course of treatment.” The reason for the substitution is to emphasize, in the wake of *Cobb v. Board of Counseling Professionals Licensure*, 2006 ME 48, that only LCPCs, LMFTs and pastoral counselors may “diagnose and treat mental health disorders.” 32 MRSA §13858.

The disclosure statement for registered counselors includes the information required by 32 MRSA §13863(2) and also includes the notice “that unlike licensing, there are no educational or training requirements for registration.”

All three variations of the disclosure statement require the counselor to include information about each postsecondary degree held by the counselor, and a statement indicating the limits and scope of confidentiality.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 9, Fees [repealed]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

This chapter is repealed in its entirety. Fees for licensees of the board are now set by the Director of the Office of Licensing and Registration pursuant to 10 MRSA §8003(2-A)(D) and 32 MRSA §13859. Applicable fees appear in Chapter 10, Section 5(13) of the rules of the Office of Licensing and Registration.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Licensing and Registration, Board of Counseling Professionals Licensure

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Jeffrey Frankel, Staff Attorney, Office of Licensing and Registration, 35 State House Station, Augusta, ME 04333, (207) 624-8615

CHAPTER NUMBER AND RULE TITLE: Chapter 10, Enforcement and Disciplinary Procedures [repealed]

STATUTORY AUTHORITY: 32 MRSA §§13853(2), 13853(11), 13858(8)

DATE AND PLACE OF PUBLIC HEARING: August 24, 2009, 9:30 a.m., Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: September 7, 2009

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: This is the second stage of an undertaking to recodify the board's rules. The first stage was completed in July 2005.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE: Cobb v. Board of Counseling Professionals Licensure, 2006 ME 48; Chapter 10 of the rules of the Board of Licensure in Medicine and the Board of Osteopathic Licensure; the University of Southern Maine's M.S. degree program in clinical counseling; 2005 Standards of the Association for Clinical Pastoral Education; 2005 American Counseling Association Code of Ethics; 2002 Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association; 1994 Code of Ethics of the American Association of Pastoral Counselors; 2001 Code of Ethics of the American Association for Marriage and Family Therapy; 2000 Code of Ethics of the American Mental Health Counselors Association; 2005 National Board for Certified Counselors Code of Ethics; 1999 Code of Ethics of the National Association of Social Workers.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

This chapter is repealed in its entirety. Investigation and processing of complaints filed by licensees is handled in accordance with the Administrative Complaint Procedures followed by the Office of Licensing and Registration. The balance of the material formerly set forth in this chapter is all fully covered by statute.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:
BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.