

EXHIBIT I

BOARD OF EXAMINERS IN COUNSELING

SUBJECT: Revisions to Board of Examiners in Counseling Rules

DESCRIPTION: A summary of revisions follows:

Language is simplified to sound less legal and more communicative.

The paragraphs have been numbered in a consistent manner. The Table of Contents has been updated to indicate the beginning of each sub-section.

The pages of duplications in Section 8 were removed, duplication from the Administrative Procedure Act was removed and acknowledged by reference. The entire section was renumbered to be consistent and easy to reference.

The requirement for applicants to pass an oral examination is changed to read “the Board may require” instead of “the applicant must pass.” The “Arkansas Jurisprudence Exam” is added under the examinations that may be required of applicants by the board. These two changes allow the board the option to reduce the number of oral examinations required of applicants by possibly replacing an oral examination with the written Jurisprudence Exam.

The CEUs for dually licensed psychotherapists (LPC/LMFT or LAC/LAMFT) are allowed to be applied concurrently instead of sequentially. So it is now possible for a dually licensed individual to maintain licensure with the same number of CEUs as a singly licensed individual.

Requirements for supervision are clarified. For example, the rules now state that an individual may receive 50% of their supervision in group, and 50% of their supervision via technology assisted, but at least 50% of their supervision must come from individual, face to face interaction. (See change due to public comment below.)

The requirement that LACs and LAMFTs complete their supervision phases within 6 years has been eliminated.

AAMFT code of ethics now reflects the most current edition. CACREP standards now refer to the most current edition.

Language that prohibited the board from considering extenuating circumstances has been changed to allow the board to consider and make allowances if the board decides it is needed. For example, the existing rules prohibit the board from accepting supervision reports submitted over 60 days past the due date, even if the board office was a contributing factor. The revisions allow the board to consider each situation individually and determine the best way to deal with it.

Reference letters for applicants must be from professionals.

Changes due to Public Comment

The limit for technology assisted supervision was raised in phases 2 and 3 to 75% from the previous 50%.

The Policy on Internet Counseling in Section 12 was updated to the current NBCC policy statement, and included by reference instead of copying the entire policy document into the rules.

Several typos and grammatical corrections were made as a result of comments and discoveries during the public comment period.

PUBLIC COMMENT: A public hearing was held on June 14, 2013, and the public comment period expired on that date. Public comments were as follows:

Written comments:

Debbie Mays, LAC

COMMENT: I support the changes proposed. **RESPONSE:** Acknowledged.

Wade Fuqua, LAC, LAMFT

COMMENT: I support the changes in CEU requirements for dually licensed individuals. I also support the language clarification concerning supervision requirements for group, face to face, and technology assisted supervision. I believe these changes are fair and comparable to other states' policies. **RESPONSE:** Acknowledged.

Todd Patton, LPC-S, Counselor Educator at Harding University

COMMENT: I support most of the proposed rules. I particularly support the changes in 4.1(f), 9.1(b), and 11(b). 3.1(e) and 3.3(f) should be worded similarly. **RESPONSE:** Agreed and edited language to bring 3.1(e) and 3.3(f) into agreement.

Garry Teeter, LPC-S, representing the Arkansas Mental Health Counselors Association

COMMENT: (1) Language corrections, such as Counselor/Psychotherapist used consistently in document, and Board instead of agency; (2) Concerns over legality of changes, such as requiring a Social Security number on applications, and treating a pardoned individual as if they had not committed a crime; (3) Changes in rules so that oral exams may be optional at the Board's discretion; (4) Changes in CEU requirements that allow dually licensed individuals to count CEUs for both licenses, instead of allocating them to one or the other; (5) Eliminating rule that provided for reports submitted over 30 days late; (6) Concerns over language changes in section 8 dealing with administrative hearings; and (7) Changing the 7 year requirement for out of state applicants back to original 3 years to accept their credentials by endorsement from the

licensing state (suggested changing to 6 years, instead). **RESPONSE:** (1) Agreed and made the changes in the final rules; (2) These changes were proposed by the AG's office to bring Board rules in compliance with other State laws – the Board chose to stay with language suggested by AG's office; (3) The Board has not decided to eliminate some or all oral exams – but these changes will allow the Board to begin to collect data to make a decision about who may be able to forgo an oral exam – when the Board is ready to make that decision, another rule with criteria will be proposed for public discussion and then filed with Legislature and Secretary of State; (4) Board, after hearing several comments on both sides of this issue, decided that the people opposed to the change were not affected by the change, and the people affected by the change all voiced approval of the proposed change, so the change stands; (5) This rule was clarified, not changed – reports have a 30 day grace period, any submitted after that time will not be accepted unless the Board, responding to an appeal, decides that extenuating circumstances warrant an exception; (6) All language changes in section 8 were proposed by the AG's office to clean up language and clarify the process based on the Administrative Procedure Act – the Board chose to accept the AG's suggestions; and (7) the Board believes that this criticism is based on poor math – an applicant from out of state who has been fully licensed for 3 years will most commonly have a total of 6 plus years of professional experience (3 in residency and 3 fully licensed) the same as that proposed by ArMHCA and Mr. Teeter.

Oral comments at public hearing:

Garry Teeter, LPC, and Joe Young, LPC, representing ArMHCA

COMMENT: (1) Opposed to removing the 6 year limit on LACs for licensure; (2) Opposed to changes in 30 day limit for late submission of reports; (3) Concerns about the Arkansas Jurisprudence Exam; (4) Opposed to increase ethics CEU requirements to 3, from current 2 per 2 year licensure period; (5) Opposed to allowing dually licensed individuals to count their CEUs for both licenses; and (6) Oppose reduction in out of state endorsement from 7 years to 3 years. **RESPONSE:** (1) The 6 year limit is a useful rule, since everyone who has ever hit that limit and asked for the Board to allow extra time has received it. The Board does not believe this is a legitimate problem. (2) The change does not eliminate the 30 day limit for submission of reports, but clarifies the requirements for licensees who believe they have a valid excuse for a late submission; (3) The Arkansas Jurisprudence Exam may eventually replace the Oral Exam, but only after sufficient data has been collected to establish valid criteria for deciding who must take an Oral and who may be exempt; (4) Since most of the issues that the Board has with licensees involve a lack of ethical decision making skills, the Board is adamant that 3 hours per 2 years is the absolute minimum of CEUs required for licensure renewal, and we may increase this amount in the future; (5) Since the opposition to allowing dually licensed individuals to count their CEUs towards both licenses is only from people not affected by the change, the Board chose to continue with the rule change to be fair to dually licensed people; (6) The change from 7 to 3 years for out of state endorsement for licensure still equates to 6 years of professional practice, which the Board believes is sufficient to indicate competency in counseling.

Bill Wilson, LMFT and President of the Arkansas Association for Marriage and Family Therapists

COMMENT: Spoke in favor of reducing the 48 hour CEU requirement for dually licensed individuals to 24 hours. Presented evidence that Arkansas is the ONLY state that doubles the amount of CEUs required for people who are licensed as both LPC and LMFTs. **RESPONSE:** Agreed.

J.D. Stake, LPC/LMFT-S

COMMENT: Proposed that technology assisted supervision limitations be increased to 75% of phase 2 and 3 from current 50% limit, but remain the same for phase 1.

RESPONSE: Since several other people present also expressed approval of this proposal, the Board voted unanimously to add it to the final rules.

Justin Moore, LPC/LMFT-S (Board chair during the year and a half that these rules were being debated and prepared for public comment)

COMMENT: Stated clear support for all of the rules proposed, and gave the background and history for the rule changes for 7 years to 3, for eliminating the 6 year LAC requirement, for adding an extra hour requirement for ethics, the Jurisprudence exam, and the 30 day report period. **RESPONSE:** Appreciated Dr. Moore's comments that clarified the Board's intentions with the rule changes.

John Carmack, LPC/LMFT-S (Board member during the rules revision process and advocate for several of the proposed changes)

COMMENT: Spoke in support of the 48 to 24 hour CEU reduction for dually licensed individuals, based on fairness. Spoke in favor of working towards eliminating the Oral exam, since Arkansas is the ONLY state still using an oral exam for counselor licensure. Explained the development and use of the Arkansas Jurisprudence Exam. Spoke in favor of eliminating the 6 year LAC requirement. And stated total support for all of the proposed rule changes. **RESPONSE:** Acknowledged.

Barry Wingfield, LPC/LMFT-S

COMMENT: Spoke in favor of the rules revisions. Specifically stated approval for removing the 6 year limit on LACs. Stated a strong support for reducing CEUs for dually licensed individuals to 24 from current 48. Spoke in favor of J.D. Stake's proposal for technology assisted supervision changes in limits. Concluded that these rules revisions should free the Board up to use some common sense in applying the rules to individual situations. **RESPONSE:** Acknowledged.

Wendy Blackwood, LPC – President of ArMHCA

COMMENT: Opposed reducing the endorsement time on out of state applicants to 3 years from 7 years, but did state approval for 6 years. **RESPONSE:** Six years is the

effect of reducing the time for FULL licensure to 3 years from 7. Three years residency plus 7 years full licensure = 10 years of professional experience. Three years residency plus 3 years full licensure = 6 years of professional experience.

Kimberly Stevens, LPC – Past-President of ArMHCA

COMMENT: Opposed the 48 hours to 24 hours reduction in CEU requirements for dually licensed individuals. **RESPONSE:** This reduction does not affect LACs and LPCs, but only dually licensed LMFT/LPC and LAMFT/LACs. So the comments of individuals not affected by the rule change does not weigh as much as the comments of individuals who are affected by the rule change.

Angie Bowen, LAC – President-Elect of ArMHCA

COMMENT: Supports many of the changes, particularly those that make the process of relocating to Arkansas fairer. Stated support for rules changes that allowed the Board to take into account the problems of real life in applying the rules to licensed individuals. Believes that there is value in the Oral exams. **RESPONSE:** Appreciated the support, and is not planning to eliminate oral exams without further study.

Jessica Sutton, an attorney with the Bureau of Legislative Research, asked the following questions:

(1) On page 7, the rule reads that “[t]he Board shall charge fees for applications, licenses, examinations and other administrative purposes deemed necessary by the board.” [Language is taken from Act 959 of 2013]. Regarding fees for “other administrative purposes deemed necessary by the Board,” what kind of fees are you talking about here? **RESPONSE:** Other fees include copying fees for FOI requests, transcript evaluations for potential applicants who don’t want to risk the application fee if they are far from being qualified for a license, etc.

(2) You have a fee schedule showing license application and renewal fees, but it does not include the examination fees. On page 36, it is stated that the exam fees are stated on the Board’s website. However, the fees should be stated in the rule in order to afford the public some notice as to what the fees are going to be. Arguably, a fee schedule would be interpreted as a “rule” as that term is defined under the APA. **RESPONSE:** As to test fees, we do not collect those. The tests we use are national tests prepared and administered by organizations who charge a fee for the test. We authorize a valid applicant to register for the test. They then contact the testing provider, register, pay, take the exam, and the testing provider then reports the scores to us on a monthly basis. We did not put those fees in the rules, since we have no control over when the fees might change, and it takes so long to change a rule, that we could have a several month delay in being able to process new applicants while we waited for a rules revision to be approved to cover the new fee. So we just post the current fees on our website.

(3) On page 51, there is reference to paragraph 8.2(4) of this rule regarding emergency action, but when I looked at that section, I couldn’t make sense of this

provision. Is that cite to paragraph 8.2(4) correct? **RESPONSE:** I believe the reference on page 51 is in error. Thank you for catching that one. I believe the correct cite should be 8.3(h).

As a result of public comments, the following changes were made to the rule:

- (1) The limit for Technology assisted supervision was raised in phases 2 and 3 to 75% from the previous 50%.
- (2) The Policy on Internet Counseling in Section 12 was updated to the current NBCC policy statement, and included by reference instead of copying the entire policy document into the rules.
- (3) Several typos and grammatical corrections were made as a result of comments and discoveries during the public comment period.

The proposed effective date is July 15, 2013, except the provision on fees authorized under Act 959 will go into effect when the 2013 legislation goes into effect (90 days after sine die).

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact. The revisions should be revenue neutral.

LEGAL AUTHORIZATION: The Arkansas Board of Examiners in Counseling shall adopt rules, regulations and procedures as it deems necessary for the performance of its duties. Ark. Code Ann. § 17-27-203(b).