

BOARDS AND COMMISSIONS
Board of Alcohol and Drug Counselors
(Amendment)

201 KAR 35:010. Definitions for 201 KAR Chapter 35.

RELATES TO: KRS 309.080, 309.0805, 309.081, 309.0813, 309.084, 309.085, 309.086, 309.087, 309.089

STATUTORY AUTHORITY: KRS 309.0813(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813 requires the Kentucky Board of Alcohol and Drug Counselors to promulgate administrative regulations establishing requirements for alcohol and drug counselors and peer support specialists. This administrative regulation establishes definitions of terms used by the board in administrative regulations pertaining to the credentialing of alcohol and drug counselors and peer support specialists.

Section 1. (1) "Academic course" means a course that is offered by a postsecondary institution accredited by a recognized accreditation agency and that is:

- (a) An alcohol and drug counseling course, designated by title or content; or
- (b) An academic course, relevant to alcohol and drug counseling.

(2) "Applicant" means an individual who has applied for temporary registration, registration, temporary certification, certification, or licensure in accordance with KRS 309.084 or a credential holder renewing a[his] credential[application] in accordance with KRS 309.085.

(3) "Approved" means recognized by the Kentucky Board of Alcohol and Drug Counselors.

(4) "Board" is defined by KRS 309.080(1).

(5) "Certified alcohol and drug counselor associate I" is defined by KRS 309.080(2).

(6) "Certified alcohol and drug counselor associate II" is defined by KRS 309.080(3).

(7) "Certified alcohol and drug counselor" is defined by KRS 309.080(4).

(8) "Chair" means the chairperson or vice-chairperson of the board.

(9)[(7)] "Charge" means a specific allegation contained in a formal complaint, as established in subsection (14)[(12)] of this section, issued by the board alleging a violation of a specified provision of KRS Chapter 309, the administrative regulations promulgated thereunder, or another state or federal statute or regulation.

(10)[(8)] "Classroom hour" means an academic hour from an accredited institution or continuing education hour.

(11)[(9)] "Client" means an individual, family, or group who directly receives services from an alcohol and drug counselor or peer support specialist; a corporate entity or other organization if the contract is to provide an alcohol and drug counselor or peer support specialist service of benefit directly to the corporate entity or organization; or a legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.

(12)[(10)] "Clinical supervision" means a disciplined, tutorial process wherein principles are transformed into practical skills, with four (4) overlapping foci: administrative, evaluative, clinical, and supportive.

(13)[(11)] "Clinical supervisor" means a certified alcohol and drug counselor who has at least two (2) years of post-certification[postcredential] experience and has attended the board-sponsored supervision training who provides supervision and whose credential is currently in good standing with the board, or a licensed clinical alcohol and drug counselor who has at least twelve (12) months of post-licensure experience or has attended the board-sponsored

supervision training who provides supervision and whose credential is currently in good standing with the board.

(14)[(12)] “Complaint” means a written allegation of misconduct by a credentialed individual or another person, alleging a violation of:

- (a) KRS Chapter 309;
- (b) Administrative regulations promulgated in accordance with KRS Chapter 309;
- (c) Another state or federal statute or regulation; or
- (d) A combination of paragraphs (a), (b), or (c) of this subsection.

(15)[(13)] “Complaint screening committee” means a committee that reviews complaints, investigates reports, participates in informal proceedings to resolve a formal complaint, and consists of up:

- ~~(a) Up~~ to three (3)[two (2)] board members appointed by the chair; ~~and~~
- ~~(b) If appointed, the executive director of the Division of Occupations and Professions, or another staff person, to be a non-voting member who is available to the committee for assistance.~~

(16)[(14)] “Continuing education hour” means fifty (50) clock minutes of participating in a continuing education experience.

(17)[(15)] “Credential holder” means a person who has a credential issued by the board pursuant to KRS 309.080 to 309.089~~[is defined by KRS 309.080(3)].~~

(18)[(16)] “Disciplinary action” means to:

- (a) Revoke, suspend, place on probation, or restrict the credential holder; and
- (b) Publicly reprimand, publicly admonish, or fine.

(19)[(17)] “Education~~[Educational]~~ program” means an organized learning experience:

- (a) Planned and evaluated to meet behavioral objectives; and
- (b) Presented in one (1) session or in a series.

(20)[(18)] “Informal proceedings” means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a resolution~~[dispensation]~~ of a matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(21)[(19)] “Investigator” means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by ~~[the Attorney General or]~~ the board.

(22)[(20)] “Licensed clinical alcohol and drug counselor” is defined by KRS 309.080(6~~[4]~~).

(23)[(21)] “Licensed clinical alcohol and drug counselor associate” is defined by KRS 309.080(7~~[5]~~).

(24)[(22)] “Licensee” is defined by KRS 309.080(8~~[6]~~).

(25)[(23)] “Provider” means an organization approved by the Kentucky Board of Alcohol and Drug Counselors for providing continuing education programs.

(26)[(24)] “Registered alcohol and drug peer support specialist” is defined by KRS 309.080(10~~[8]~~).

(27)[(25)] “Registrant” is defined by KRS 309.080(11~~[9]~~).

(28)[(26)] “Relevant” means having content applicable to the practice of alcohol and drug counseling in accordance with the requirements of 201 KAR 35:040, Section 3(2).

(29)[(27)] “Work experience” means the hours spent performing the services, tasks, and reports necessary for providing counseling, intervention, or support services to a person with a substance use disorder or that person's significant others.

TIM CESARIO, Chair

APPROVED BY AGENCY: February 25, 2021

FILED WITH LRC: March 5, 2021 at 4:27 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM on May 24, 2021 at 500 Mero Street, 127CW, Frankfort, Kentucky 40601. In the event the building is not open to the public on May 24, 2021, including if the declared State of Emergency in Executive Order 2020-215 and the State of Emergency Relating to Social Distancing in Executive Order 2020-243 are not rescinded by May 24, 2021, this hearing will be held by video teleconference, in which event members of the public wishing to attend may utilize the following link: <https://us02web.zoom.us/j/88015845024?pwd=WnhsNmR3SGJwRXM0YktrM1psbkVxZz09>, Password: 203666, Or Telephone: Dial: USA 713 353 0212, USA 8888227517 (US Toll Free), Conference code: 995892. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on May 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Kevin R. Winstead, Commissioner, Department of Professional Licensing, 500 Mero Street, 237CW, Frankfort, Kentucky 40601, phone (502) 782-0562, fax (502) 564-4818, email KevinR.Winstead@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin R. Winstead

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines the terms used in 201 KAR Chapter 35.

(b) The necessity of this administrative regulation: This regulation is necessary to define the terms used in 201 KAR Chapter 35.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute, KRS 209.0813(1), requires the board to promulgate regulations pursuant to KRS Chapter 13A for the administration and enforcement of KRS 309.080 to 309.089.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will provide a definition for terms used in 201 KAR Chapter 35.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change the existing administrative regulation by: (1) adding temporary registration and temporary certification to the definition of “applicant”; (2) making pronouns gender neutral; (3) clarifying that a credential holder renews a credential not an application; (4) adding definitions for certified alcohol and drug counselor associate I and II; (5) updating statutory location for certified alcohol and drug counselor; (6) changing definition for “clinical supervisor” to reflect changes in statutory requirements, specifically, defining a clinical supervisor as a certified alcohol and drug counselor who has two (2) years of post-certification experience and has attended the board-sponsored training or a licensed clinical alcohol and drug counselor who has at least twelve (12) months of post-licensure experience or has attended the board-sponsored

supervision training; (7) deleting reference to the executive director of the Division of Occupations and Professions as a non-voting member of the complaint screening committee; (8) updating definition of credential holder to mean a person who has a credential issued by the board pursuant to KRS 309.080 to 309.089; (9) removing the Attorney General” from the definition of “investigator.”

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to have clear definitions for terms used in the board’s regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statute. The authorizing statute, KRS 209.0813(1), requires the board to promulgate regulations pursuant to KRS Chapter 13A for the administration and enforcement of KRS 309.080 to 309.089.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by providing clear definitions for terms used in the board’s regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board is unable to determine the exact number of persons who would be impacted by this regulation since the applications vary from month to month. Future applicants and persons credentialed by the board will be affected by this administrative regulation. As of February 1, 2021 there were 513 licensed clinical alcohol and drug counselors, 21 licensed clinical alcohol and drug counselor associates, 458 certified alcohol and drug counselors, 930 temporary certified alcohol and drug counselors, 95 temporary registered alcohol and drug peer support specialists, and 15 registered alcohol and drug peer support specialists.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: There are no actions needed to be taken for compliance of this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no cost associated with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Applicants and credential holders benefit by having the definitions of terms used within the regulations to clarify the regulations and put the licensee on clear notice.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Initially, there is no additional cost to the administrative body to implement this administrative regulation.

(b) On a continuing basis: On a continuing basis, there is no additional cost to the administrative body to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board’s operations are funded by fees paid by credential holders and applicants.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be required to implement the changes made by this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as this regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Alcohol and Drug Counselors.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 309.0813(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to administer this program.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None