BOARDS AND COMMISSIONS
Board of Licensed Professional Counselors
(Amendment)

201 KAR 36:065. Licensed professional clinical counselor supervisor.

RELATES TO: KRS 335.500(4), 335.505(4), 335.525(1)(e), 5(a)
STATUTORY AUTHORITY: KRS 335.515(1), (3), (5)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.525(1)(e) provides that an applicant for a professional clinical counselor license shall have acquired 4,000 hours of experience in the practice of counseling under approved supervision. KRS 335.515(3) requires the board to promulgate administrative regulations to implement KRS 335.500 to 335.599, relating to licensed professional counselors. KRS 335.525(5)(a) requires a licensed professional counselor associate to maintain ongoing supervision as approved by the board. This administrative regulation establishes the qualifications of a supervisor and establishes the roles and responsibilities of the supervisor.

Section 1. Supervisor Qualifications.
(1) To be a supervisor of a licensed professional clinical counselor under discipline or a licensed professional counselor associate, an applicant shall:
(a) Submit a LPCC-S Application with supporting documentation that includes one (1) of the following:
1. A certificate or certificates documenting the completion of~~[from the]~~ fifteen (15) hours in a board-approved~~[hour]~~ CEU course on supervision; or
2. ~~[Two (2) years of board-]~~approved~~[supervision agreements to support the five (5) years of experience as a licensed professional clinical counselor supervisor; or]~~
~~[3.]~~ A copy of the transcript~~[the syllabus as proof of completion]~~ of a supervision course in a graduate program;
(b) Be licensed by the board as a licensed professional clinical counselor;
(c) Not have:
1. An unresolved complaint that has been:
a. Reviewed by the complaints screening committee and referred for investigation; or ~~[citation]~~
b. Filed against the applicant by the board that licenses or certifies that profession;
2. A suspended or probated license or certificate;~~[or]~~
3. Been under discipline by the board within the last two (2) years preceding the application; or
4. ~~[3.]~~ An order from the board under which the applicant is licensed or certified prohibiting the applicant from providing supervision;
(d) Have been in the practice of his or her profession for at least two (2) years following licensure as a professional clinical counselor or its licensure equivalent issued by another state's regulatory professional counseling board; and
(e) If coming from another state:
1. Show proof of supervisory status in the other state;
2. Take a three (3) hour board-approved training on Kentucky law; and
3. Not have an order from the board of another state prohibiting the applicant from providing supervision. ~~[Have taught or completed a:]~~
~~[1.] [Three (3) hour graduate level course in counseling supervision; or]~~
~~[2.] [Fifteen (15) hour board-approved supervisor training course.]~~
(2) ~~[Any supervisor who is a clinical counseling supervisor as a part of a board-approved supervisory agreement or a supervisor of a graduate-level counseling student who is~~

~~providing services in a mental health setting with five (5) years of experience shall be deemed to satisfy the requirement of subsection (1)(c) of this section.]~~

~~[(3)]~~ A three (3) hour graduate level course exclusively on counseling supervision or the board-approved supervisor training course shall:

(a) Cover:

1. Assessment, evaluation, and remediation, which includes initial, formative, and summative assessment of supervisee knowledge, skills, and self-awareness; components of evaluation, e.g. evaluation criteria and expectations, supervisory procedures, methods for monitoring (both direct and indirect observation), supervisee performance, formal and informal feedback mechanisms, and evaluation processes (both summative and formative), and processes and procedures for remediation of supervisee skills, knowledge, and personal effectiveness and self-awareness;

2. Counselor development, which includes models of supervision, learning models, stages of development and transitions in supervisee-supervisor development, knowledge and skills related to supervision intervention options, awareness of individual differences and learning styles of supervisor and supervisee, awareness and acknowledgement of cultural differences and multicultural competencies needed by supervisors, recognition of relational dynamics in the supervisory relationship, and awareness of the developmental process of the supervisory relationship itself;

3. Management and administration, which includes organizational processes and procedures for recordkeeping, reporting, monitoring of supervisee's cases, collaboration, research and evaluation; agency or institutional policies and procedures for handling emergencies, case assignment and case management, roles and responsibilities of supervisors and supervisees, and expectations of supervisory process within the institution or agency; institutional processes for managing multiple roles of supervisors, and summative and formative evaluation processes; and

4. Professional responsibilities, which includes ethical and legal issues in supervision including dual relationships, competence, due process in evaluation, informed consent, types of supervisor liability, privileged communication, and consultation; regulatory issues including counseling supervision, professional standards and credentialing processes in counseling, reimbursement eligibility and procedures, and related institutional or agency procedures; and

(b) The board-approved supervisor training course shall be conducted by an instructor who is a licensed professional clinical counselor and who has demonstrated proficiency in the curriculum established in paragraph (a) of this subsection.

(3) Nothing in this section shall preclude the board from considering information provided by the applicant warranting the issuance of the supervisor designation.

(4) Licensed professional clinical counselors engaged in training supervision shall be called a "licensed professional clinical counselor supervisor" and may use the acronym "LPCC-S".

Section 2. A supervisor of record shall assume responsibility for the practice of the supervisee. A supervisor shall not serve as a supervisor of record for more than six (6) ~~[twelve (12)]~~ persons obtaining experience for licensure at the same time.

Section 3. A supervisor who is placed under discipline shall be ineligible to act as a supervisor and shall not become eligible to apply for reinstatement as a supervisor no earlier than two (2) years following the completion of any disciplinary action, including completion of any suspension or probationary period. Further, a board-approved supervision training shall be required prior to reinstatement.

Section 4. [Section 3.] Incorporation by Reference.

(1) "LPCC-S Application", DPL-LPC-03, July 2023[September 2017], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensed Professional Counselors, 500 Mero Street[911 Leawood Drive], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:00[4:30] p.m. This material is also available on the board's Web site at https://lpc.ky.gov.

DR. HANNAH COYT, Chair

APPROVED BY AGENCY: September 13, 2023

FILED WITH LRC: September 14, 2023 at 2 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on November 28, 2023 at 1:00 p.m. EST in Room 127CW, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. Members of the public may also utilize the following link to attend the meeting by video conference: Topic: LPC Regulation Public Hearing, Time: Nov 28, 2023 01:00 PM Eastern Time. Join from PC, Mac, Linux, iOS or Android: https://us06web.zoom.us/j/87588899726?pwd=ME5WeXp6dk9xRXJmMnl1K0ZDd3M5dz09, Password: 186265, Or Telephone: Dial: USA 713 353 0212, USA 8888227517 (US Toll Free), Conference code: 387980. Individuals interested in attending this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends 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 this proposed administrative regulation until 11:59 pm on November 30, 2023. Written notification of intent to attend the public hearing or written comments on the proposed administrative regulation should be made by using the Public Protection Cabinet website at the follow address: https://ppc.ky.gov/reg_comment.aspx. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, phone (502) 782-2709, fax (502) 564-4818, email Sara.Janes@ky.gov, Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Sara Boswell Janes

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This administrative regulation establishes the requirements to be a board-approved supervisor.

(b) The necessity of this administrative regulation:
This administrative regulation is necessary to establish the requirements to be a board-approved supervisor.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for board-approved supervisors.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This administrative regulation specifies the requirements to be a board approved supervisor

(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 strikes language that allowed grandfathering of pre-existing supervision agreements with other professional credential holders since time has expired for grandfathering; clarifies requirements to qualify as a supervisor and strikes redundant language; clarifies the supervisor applicant have no unresolved complaints versus citation and adds a two-year restriction to supervision following any discipline; and provides clarification on the requirements for out-of-state supervisory applicants, including removal of the requirement for a graduate and supervisory training courses and strikes the grandfather provision since the time it would apply for has lapsed; reduces the maximum number of supervisees from twelve (12) to six (6); and includes new provisions regarding supervisors under discipline.

(b) The necessity of the amendment to this administrative regulation:
The amendment is necessary to clarify the educational and experiential requirements for supervisory qualification; establish parameters and restrictions for supervisor status for licensees who are disciplined which has recently been problematic; and reduce the number of licensees a supervisor may supervise to ensure competency of services, prevent burnout and to protect the public.

(c) How the amendment conforms to the content of the authorizing statutes:
This amendment conforms with the board's delegated authority.

(d) How the amendment will assist in the effective administration of the statutes:
The amendment assists by clarifying the process for becoming a designated supervisor, the requirements of a graduate-level course to becoming a designated supervisor, reducing the number of supervisees to a more manageable number in order to ensure competency, avoid burnout and protect the public, and establishing

standards and restrictions on supervisory qualification or status during and after discipline to protect the public.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

There are 4017 active and 56 inactive licensees who may be affected by the amendments in some capacity, as well as any new applicants for licensure. Presently, there are 2692 active licensed professional clinical counselors (LPCCs) of which 1055 has a supervisor credential and 531 are actively supervising. There are 1325 active licensed professional clinical counselor associates (LPCAs) under supervision who will be directly affected by these amendments.

(4) Provide an analysis of how the entities identified in question (3) 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 that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

This amendment will require supervisors with more than six (6) supervisees to terminate supervision agreements for any number over six (6); and the amendment will require terminated supervisees to find another supervisor in order to ensure continuation of services to clients. There are 31 supervisors who will be affected by this change.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There is no new cost/fee associated with the amendments. However, any reduction in the number of supervisees by a supervisor will result in an overall loss of income based on a reduced number of supervision fees to those supervisors. This will affect 2.9% of all licensees with the supervisory credential and 5.8% of those who are active supervisors.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The benefit is that a supervisor is properly trained and a board-approved supervisor, that licensees needing supervision are not being supervised by someone who is or has recently been under discipline, and that a supervisor does not have too many supervisees to ensure competency, avoid burnout and protect the public protect.

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

(a) Initially:

No costs by the administrative body will be incurred to implement these changes.

(b) On a continuing basis:

No new costs will be incurred by the changes.

(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 establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any new fees.

(9) TIERING: Is tiering applied?

This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE

(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 Licensed Professional Counselors.

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

KRS 335.515(1), (3), and (5).

(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.

(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?

None.

(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?

None.

(c) How much will it cost to administer this program for the first year?

There are no additional costs to administer this program.

(d) How much will it cost to administer this program for subsequent years?

See 3(c).

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

None.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

None.

(c) How much will it cost the regulated entities for the first year?

5.8% of those who are active supervisors have more than six (6) supervisees and will be required to terminate some of their supervision agreements. However, the cost is indeterminable. Some supervision services are pro bono and the fee varies since some have a sliding scale depending on the supervisee's work status (employer-paid supervision versus supervisee-paid).

(d) How much will it cost the regulated entities for subsequent years?

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

Cost Savings (+/-):None

Expenditures (+/-):Indeterminable

Other Explanation:

Some supervision services are pro bono and the fee varies since some have a sliding scale depending on the supervisee's work status (employer-paid supervision versus supervisee-paid).

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars ($500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This administrative regulation will not have a major economic impact.