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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 94

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 94 INDEPENDENT MENTAL HEALTH PRACTITIONERS, MENTAL HEALTH PRACTITIONERS, MARRIAGE AND FAMILY THERAPISTS, PROFESSIONAL COUNSELORS, AND SOCIAL WORKERS

001. SCOPE AND AUTHORITY. These regulations govern the licensing of independent mental health practitioners, mental health practitioners, and the associated certifications of social workers, master social workers, professional counselors, and marriage and family therapists set out in Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 38-2101 to 38-2139 of the Mental Health Practice Act and the Uniform Credentialing Act. A person who provides mental health services, regardless of the how such services are delivered, to a client present in Nebraska at the time of service, must hold a current appropriate credential issued by the Department.

002. DEFINITIONS. Definitions set out in the Mental Health Practice Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and the following apply to this chapter.

002.01 ASSESSMENT. The process of collecting pertinent data about client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment and referral.

002.02 CLIENT OR PATIENT. A person who is a recipient of mental health services within the context of a professional relationship. An individual who provides collateral information about a client or patient is not considered a client or patient.

002.03 CLIENT SYSTEM. Individuals, agencies, or entities directly or indirectly involved with the client that supports, reinforces or otherwise affects the treatment process.

002.04 DIRECT CLIENT CONTACT. Contact between the practicum student or provisional licensed mental health practitioner and a client system while providing mental health services. Direct client contact does not include:

- (A) Writing progress notes;
- (B) Supervisory meetings;
- (C) Research;
- (D) Video observation;
- (E) Continuing education workshops or other similar workshops;
- (F) Telephone supervision; or
- (G) Similar activities.

002.05 MAJOR MENTAL DISORDER. Any clinically significant mental or emotional disorder in which symptoms, regardless of specific diagnoses or the nature of the presenting complaint, are associated with present distress or disability or present significantly increased risk of suffering, death, pain, disability, or an important loss of freedom. No diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, nor any diagnosis from the International Classification of Diseases (ICD) published by the World Health Organization, of the edition or version used on the effective date of this chapter, is excluded from the category of Major Mental Disorder if the contemporary assessment indicates severe symptoms, as outlined in this section. This includes currently observed or assessed dysfunction or impairment that portends danger to self or others, a disabling deterioration of function that seriously impairs daily functioning to include food, clothing, and shelter, or an inability to establish or maintain a personal support system. Such disorders may take many forms and have varying causes but must be considered a manifestation of behavioral, psychological, or biological dysfunction in the person. Behavioral or psychological disorder symptoms include one or more of the following:

- (A) Persistent or severe suicidal or homicidal thinking or behaviors injurious to self or others;
- (B) Psychotic symptoms which include delusions, hallucinations, or formal thought disorders, including evidence of frequent substitution of fantasy for reality;
- (C) Physical complaints or signs suggesting deterioration or anomaly in physiological, psychophysiological, or neuropsychological functioning;
- (D) Feeling, mood or affect in which the emotion is clearly disruptive in its effects on other aspects of a person's life. A marked change in mood, depression, or anxiety that incapacitates a person;
- (E) Severe impairment in concentration and thinking, persistence, and pace. Frequent or consistently impaired thinking; and
- (F) Consistent inability to maintain conduct within the limits prescribed by law, rules, and strong mores or disregard for safety of others or destructive to property.

002.06 MENTAL HEALTH. The relative state of emotional well-being, freedom from incapacitating conflicts, and the consistent ability to make and carry out rational decisions and cope with environmental stresses and internal pressures.

002.07 MENTAL HEALTH FOCUS OR THERAPEUTIC MENTAL HEALTH. An educational process consisting of mental health theories, techniques, practices, and methods necessary to prepare a mental health professional to identify, assess, and intervene with a client population for the primary purposes of providing or resulting in the clients optimal mental health.

002.08 MENTAL ILLNESS. Impaired psychosocial or cognitive functioning due to disturbances in any one or more of the following processes: biological, chemical, physiological, genetic, psychological, social, or environmental.

002.09 PSYCHOTHERAPY. A specialized formal interaction between a credential holder and a client or patient in which a therapeutic relationship is established to help to resolve symptoms of mental disorder, psychosocial stress, relationship problems, and difficulties in coping in the social environment. Some specific types of psychotherapy may include, but are

not limited to, psychoanalysis, family therapy, group psychotherapy, supportive treatment, Gestalt therapy, experiential therapy, primal therapy, psychosocial therapy, psychodrama, behavioral therapy, clinical hypnosis, addiction therapy including drug and alcohol counseling and problem gambling, biofeedback, and cognitive therapy.

002.10 QUALIFIED PHYSICIAN. An individual with a current credential to practice medicine and surgery and who has specialized training in mental health treatment. Specialized training includes residency training in psychiatry or in family practice or fellowship training in behavioral medicine.

002.11 QUALIFIED SUPERVISOR. An individual who assumes the responsibility of supervision and who meets the requirements for being a supervisor.

002.12 SUPERVISED EXPERIENCE. The hours of experience obtained after receipt of the master's degree, under appropriate licensure and before an applicant is granted the desired credential or certification.

003. INITIAL LICENSE. To obtain a provisional or mental health practice license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-2122 or 38-2123, 172 NAC 10, and this chapter.

003.01 PROVISIONAL MENTAL HEALTH PRACTITIONER LICENSE. The applicant must submit an official transcript, submitted directly from the issuing institution, verifying completion of a master's degree, a doctoral degree, or the equivalent of a master's degree. The degree must have been completed at an approved educational program or from a program which meets the requirements in 172 NAC 94-007.

003.02 SECOND PROVISIONAL MENTAL HEALTH PRACTITIONER LICENSE. An individual who does not complete the required 3,000 hours of supervised experience in Nebraska may apply for another provisional license. No additional provisional licenses will be issued to an applicant after the issuance of a second provisional license.

003.03 MENTAL HEALTH PRACTITIONER LICENSE. To obtain an initial license as a mental health practitioner, the applicant must submit:

- (A) Documentation of meeting the education requirements set out in 172 NAC 94-007.
- (B) Documentation of meeting the requirements for supervised experience set out in Neb. Rev. Stat. § 38-2122. If the hours were earned in Nebraska the applicant must have held a provisional mental health practitioner license at the time.
- (C) Submit documentation of successfully passing the examination set out in 172 NAC 94-010, directly to the Department from the examination entity or from another state licensing board or agency.

003.04 INDEPENDENT MENTAL HEALTH PRACTITIONER LICENSE. To obtain an initial license as an independent mental health practitioner, the applicant must have a provisional mental health practitioner license or a mental health license. Applicants must submit a complete application provided by the Department and provide documentation demonstrating

that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-2124, 172 NAC 10, and this chapter. Documentation includes:

- (A) Evidence of passing the appropriate examination identified in 172 NAC 94-010. Examination scores must be sent directly to the Department from testing vendor or from another state licensing board or agency.
- (B) An affidavit signed by the supervisor verifying supervised experience set out in Neb. Rev. Stat. §38-2124.

003.05 CERTIFICATE AS A MARRIAGE AND FAMILY THERAPIST, PROFESSIONAL COUNSELOR, OR MASTER SOCIAL WORKER. An individual who is licensed or qualified to be licensed as an independent mental health practitioner or mental health practitioner may apply for an associated certification as a certified marriage and family therapist, certified professional counselor, or master social worker. To obtain an initial certificate, the applicant must submit a complete application as provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-2128 or 38-2132 or 38-2133, 172 NAC 10, and this chapter.

003.05(A) SUPERVISED EXPERIENCE. An individual applying for certification must submit documentation of having completed at least 3,000 hours of supervised experience applicable to the certificate being requested, under a qualified supervisor set out in 172 NAC 94-008, following receipt of the masters' degree.

003.05(B) EXAMINATION. Submit documentation of successfully passing the examination set out in 172 NAC 94-010, directly to the Department from the examination entity or from another state licensing board or agency.

004. PROVISIONAL CERTIFICATE AS A MASTER SOCIAL WORKER. To obtain a provisional certificate, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the certification requirements of Neb. Rev. Stat. § 38-2129, 172 NAC 10, and this chapter.

004.01 EDUCATION. The applicant must submit an official transcript, submitted directly from the issuing institution, verifying completion of a masters' degree in social work. The degree must have been completed at an approved educational program set out in 172 NAC 94-007.05.

004.02 SECOND PROVISIONAL. An individual who does not complete the required 3,000 hours of supervised experience in Nebraska may apply for another provisional certificate. No additional provisional certificates will be issued to an applicant after the issuance of a second provisional certificate.

005. CERTIFIED SOCIAL WORKER OR CERTIFIED MASTER SOCIAL WORKER. To obtain a certificate that is not in addition to the license as an independent mental health practitioner or mental health practitioner, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-2128, 172 NAC 10, and this chapter. The applicant must submit:

- (A) An official transcript directly from the educational institution or through an acceptable electronic transcript service, showing proof of the required degree; and
- (B) Evidence of meeting the education requirements set out in 172 NAC 94-007.05.

006. RECIPROCITY. To obtain a license or certification based on the applicant holding a credential in another jurisdiction, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the license or certification requirements of § 38-2125, 172 NAC 10, and this chapter. The applicant must submit:

- (A) Documentation of meeting the licensing requirements set out in 172 NAC 94-003.03 or 172 NAC 94-003.04 for the license being requested.
- (B) If applying for a certificate, documentation of meeting substantially equivalent standards to those set out in 172 NAC 94-003.05.
- (C) If the applicant is applying for a license based on 5 years of active practice experience following initial licensure or certification in another jurisdiction, the applicant is not required to meet 172 NAC 94-006(A) or (B), but must submit evidence of successful completion of the Nebraska Jurisprudence Examination as set out in 172 NAC 94-010.02(F) and the following:
 - (i) Documentation of having been in active practice under a similar credential following initial credentialing in another jurisdiction as set out in Neb. Rev. Stat. § 38-2125; and
 - (ii) Direct source verification of the credential the applicant holds in another jurisdiction.

007. EDUCATIONAL PROGRAMS. If the educational program is not accredited by one of the organizations set out in Neb. Rev. Stat. § 38-2104, the applicant must provide evidence that the program meets the following requirements:

007.01 MARRIAGE AND FAMILY THERAPY. A program that meets substantially equivalent educational requirements as adopted by Commission on Accreditation for Marriage and Family Therapy Education.

007.02 MENTAL HEALTH PRACTICE. To be approved as equivalent to an approved mental health program, a program must meet the following:

- (A) Be at least 60 graduate semester hours in duration. If the master's degree is less than 60 semester hours, additional hours can be attained outside of the program to equal 60 semester hours. Any additional hours must be graduate hours and have a mental health focus to be considered as substantially equivalent.
- (B) Have a mental health focused supervised practicum or internship that included a minimum of 300 clock hours of direct client contact under the supervision of a qualified supervisor as defined in 172 NAC 94-008 of these regulations. Any artificial situation where a person presents a problem, such as role playing, is not direct client contact. The program must have an emphasis on mental health practice and include coursework in theories and techniques, professional ethics, assessment techniques, human growth and development, and research and evaluation. Two years after the effective date of these regulations the coursework must also include social and cultural diversity. No course may be used to fulfill more than 1 coursework area. The coursework must meet the following requirements:
 - (i) A minimum of 6 semester hours or 9 quarter hours in theories and techniques. Two years after the effective date of these regulations, the coursework must include a minimum of at least 9 semester hours or 12 quarter hours in theories

and techniques. The course must focus on therapeutic techniques and strategies for human behavioral intervention. Therapeutic techniques and strategies may include the study of major contributions of biological, behavioral, cognitive, and social sciences relevant to understanding assessment and treatment of a person and his or environment with an emphasis on the social systems framework, personality theories, and development through the life cycle, and application of those during therapy.

- (ii) A minimum of 3 semester hours or 4.5 quarter hours in professional ethics. The course must focus on the application of ethical and legal issues to the practice. Ethical and legal issues may include family law, codes of ethics, boundaries, peer review, record keeping, confidentiality, informed consent, and duty to warn.
 - (iii) A minimum of 3 semester hours or 4.5 quarter hours in assessment techniques. The course must focus on the process of collecting pertinent data about a client or client systems and their environment and appraising the data as a basis for making decisions regarding treatment or referral or both. Assessment techniques may include the ability to make a clinical diagnostic impression, knowledge of psychopathology, and assessment of substance abuse and other addictions.
 - (iv) A minimum of 3 semester hours or 4.5 quarter hours in human growth and development. The course must focus on studies that provide an understanding of the nature and needs of individuals at all developmental levels. Human growth and development may include theories of individual and family development and transitions across the life-span; theories of learning and personality development; human behavior including an understanding of developmental crises, disability, exceptional behavior, addictive behavior, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior; and strategies for facilitating optimum development over the life-span.
 - (v) A minimum of 3 semester hours or 4.5 quarter hours in research and evaluation. Research and evaluation includes statistics or research design and development of research, and demonstration proposals.
 - (vi) Two years after the effective date of these regulations, in addition to the above coursework, a minimum of 3 semester hours or 4.5 quarter hours in social and cultural diversity. The course must focus on studies that provide an understanding of the cultural context of relationships, and issues and trends in a multicultural and diverse society. Social and cultural diversity may include multicultural and pluralistic trends, including characteristics and concerns between and within diverse groups nationally and internationally; attitudes, beliefs, understandings, and acculturative experiences, including specific experiential learning activities; individual, couple, family, group, and community strategies for working with diverse populations and ethnic groups; counselors' roles in social justice, advocacy and conflict resolution, cultural self-awareness, the nature of biases, prejudices, processes of intentional and unintentional oppression and discrimination, and other culturally supported behaviors that are detrimental to the growth of the human spirit, mind, or body; theories of multicultural counseling, theories of identity development, and multicultural competencies.
- (C) Graduate programs accepting an undergraduate course as meeting the course criteria set out in 172 NAC 94-007.02(B)(i) through (vi) are acceptable if the course

was used to meet the requirements for the master's degree. The applicant must have the school submit a notarized letter, on institutional letterhead, from an authorized person—stating the undergraduate course(s) was accepted to meet the educational requirement(s) of the master's degree.

007.03 INDEPENDENT MENTAL HEALTH PRACTICE. A program that meets the educational requirements set out in Neb. Rev. Stat. § 38-2124.

007.04 PROFESSIONAL COUNSELING. A program that meets substantially equivalent educational requirements as adopted by the Council for Accreditation of Counseling and Related Educational Programs.

007.05 SOCIAL WORK. The following are acceptable programs:

007.05(A) BACCALAUREATE DEGREE. Undergraduate social work education and training approved by the Council on Social Work Education (CSWE).

007.05(B) MASTER'S DEGREE. Graduate social work education and training approved by the Council on Social Work Education (CSWE).

007.05(C) DOCTORAL DEGREE PROGRAMS. Recognized by the Groups for Advancement of Doctoral Education (GADE).

007.06 DEGREE OBTAINED IN A FOREIGN COUNTRY. A degree obtained in a foreign country must be evaluated by a foreign educational credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) and be determined as equivalent to a degree issued from an approved program.

008. QUALIFIED SUPERVISOR. Supervisors must insure that their judgment is not impaired based on their personal relationship with the supervisee and that no exploitation of the supervisee occurs. The supervisor must:

- (A) Hold a current active credential; and
- (B) If the supervisor's license or certificate has been disciplined, at least 1 year must have elapsed following completion of any disciplinary terms and conditions. If disciplinary action is taken by the Department during the supervisory agreement period, the supervisor must terminate the supervision immediately and notify the Department.

008.01 ADDITIONAL REQUIREMENTS. The following sets out additional supervisor requirements to obtain a license as an independent mental health practitioner, a certificate as a marriage and family therapist, a certificate as a master social worker, or a license as a mental health practitioner.

008.01(A) INDEPENDENT MENTAL HEALTH PRACTICE LICENSE. The supervisor must be a licensed physician, a licensed psychologist, a licensed independent mental health practitioner, or have a current similar credential or certification in another jurisdiction.

008.01(B) MARRIAGE AND FAMILY THERAPY CERTIFICATE. The supervisor must be a licensed independent mental health practitioner, licensed mental health practitioner, licensed psychologist, or licensed physician who meets either item (i) or (ii) below:

- (i) Holds an approved supervisor designation issued by the American Association for Marriage and Family Therapy or an equivalent organization as approved by the Board; or
- (ii) Is a certified marriage and family therapist or have a current similar credential or certification in another jurisdiction, who has practiced for five years and has completed, at a minimum, a five hour supervision course that is provided, endorsed, or approved by the American Association of Marriage and Family Therapy or an association which has substantially similar standards to those of the American Association of Marriage and Family Therapy, and has received supervision by an American Association of Marriage and Family Therapy approved supervisor at least one hour per month for at least one year after completion of the supervision course.

008.01(C) MASTER SOCIAL WORK CERTIFICATION. The supervisor must be a certified master social worker, or have a current similar credential or certification in another jurisdiction.

008.01(D) MENTAL HEALTH PRACTICE LICENSE. The supervisor must be a licensed physician, a licensed psychologist, a licensed independent mental health practitioner, a licensed mental health practitioner, or have a current similar credential or certification in another jurisdiction.

009. SUPERVISED EXPERIENCE. To count toward the required number of hours of supervised experience, all direct and in-direct client contact hours must take place while the applicant is being supervised by a qualified supervisor and supervised experience must meet the requirements set out below:

009.01 GENERAL SUPERVISION REQUIREMENTS. Supervision for all applicants must meet the following:

- (A) Focus on raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings;
- (B) Include a process which is distinguishable from personal psychotherapy, consultation, or didactic instruction; and
- (C) Consist of experience in a setting where mental health services are being offered during which:
 - (i) The supervisee apprises the supervisor of the diagnosis and treatment of clients;
 - (ii) The clients' cases are discussed;
 - (iii) Ethical principles of the profession are discussed;
 - (iv) The supervisor provides the supervisee with oversight and guidance with the provision of service to clients;
 - (v) The supervisor must evaluate the supervisee's performance by periodically evaluating the therapeutic process and determining if treatment goals are being met and if changes in direction or emphasis are needed; and

- (vi) The supervisor cannot supervise more than 6 persons at 1 face-to-face supervisory meeting. Face to face supervision may include interactive visual imaging assisted communication which is secure and confidential.

009.02 MENTAL HEALTH PRACTICE SUPERVISION. Supervision must also include:

- (A) Supervised experience, which is not considered direct client contact, and includes, but is not limited to, review of client records, case conferences, direct observation, or video observation; and
- (B) Evaluative face-to-face contact for a minimum of 1 hour per week between the supervisee and supervisor. Face to face supervision may include interactive visual imaging assisted communication which is secure and confidential.

009.03 INDEPENDENT MENTAL HEALTH PRACTICE SUPERVISION. In addition to the requirements in 172 NAC 94-009.02 supervision must include:

- (A) A review of the diagnostic criteria for clients diagnosed with major mental disorders;
- (B) Evaluative face-to-face contact with a minimum cumulative ratio of 2 hours of face-to-face contact between the supervisee and a qualified supervisor per 15 hours of contact with clients diagnosed with major mental disorders, no more than 45 hours may be accumulated without such supervision. Face to face supervision may include interactive visual imaging assisted communication which is secure and confidential;
- (C) Supervised experience, which is not considered direct client contact, includes, but is not limited to, review of client records, case conferences, direct observation, or video observation; and
- (D) A licensed mental health practitioner seeking licensure as a licensed independent mental health practitioner must receive supervision of all direct client contact where the licensee is providing services to clients with major mental disorders. This supervision must last until the person receives the credential qualifying him or her for independent practice, not just during the period of time in which the specified number of hours is obtained.

009.04 MARRIAGE AND FAMILY THERAPY SUPERVISION. Supervision must include:

- (A) At least 3,000 hours of supervised experience during the five years preceding application for certification. The 3,000 hours must include a minimum of 1,500 hours of direct client contact. During the course of completing the client-contact hours, there must be at least 100 hours of supervisor-supervisee contact hours with a qualified supervisor and supervision must be provided at least 1 hour per week or 2 hours every 2 weeks; and
- (B) Supervised experience, which is not considered direct client contact, includes, but is not limited to, review of client records, case conferences, direct observation, or video observation.

009.05 MASTER SOCIAL WORK SUPERVISION. When a person wishes to apply for a mental health practice license and master social work certificate, supervision must be provided under a licensed independent clinical social worker or licensed clinical social worker and in accordance with this section. Supervision, when conducted pursuant to Neb. Rev. Stat. § 38-2129, must include:

- (A) At least 3,000 hours of supervised experience;
- (B) The written records of services or procedures are examined and evaluative interviews are conducted by a certified master social worker;
- (C) Discussion of ethical principles of the profession; and
- (D) Evaluative face-to-face contact for a minimum of 1 hour per week between the supervisee and supervisor.

010. EXAMINATIONS. Applicants must meet the examination requirements of this section.

010.01 ELIGIBILITY AND APPLICATION PROCESS. For an applicant who is not authorized to take the examination through his or educational institution, the applicant must apply for approval through the Department and must have received a master's, doctorate or equivalent degree from an approved program as set out in 172 NAC 94-007. The applicant must submit the following:

- (A) An official transcript submitted directly from the educational institution or through an acceptable electronic transcript service, showing proof of the required degree.
- (B) A completed application requesting approval to take the examination.
- (C) A completed request for special accommodations, if requested by the applicant.

010.02 EXAMINATIONS REQUIRED. The following examinations are required as set out in this chapter.

010.02(A) MARRIAGE AND FAMILY THERAPY. For certification as a marriage and family therapist and licensure as a mental health practitioner or independent mental health practitioner, an applicant must pass the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination.

010.02(B) PROFESSIONAL COUNSELING. For certification as a professional counselor and licensure as a mental health practitioner or independent mental health practitioner, an applicant must pass:

- (i) The National Board of Certified Counselor's National Counselor Examination (NBCC/NCE) or The National Board of Certified Counselor's National Clinical Mental Health Counselor Examination (NBCC/NCMHCE); or
- (ii) The Commission on Rehabilitation Counselor Examination (CRC).

010.02(C) SOCIAL WORK. An applicant must pass the Association of Social Work Boards examination as identified below:

- (i) If applying for the mental health practice license or independent mental health practice license and master social work certificate, the applicant must pass the Clinical Examination.
- (ii) If applying for only the master social work certificate, the applicant must pass the Advanced Generalist Examination, Master Examination, or Clinical Examination.

010.02(D) MENTAL HEALTH PRACTITIONER OR INDEPENDENT MENTAL HEALTH PRACTITIONER. An applicant must pass the examination as follows:

- (i) If the applicant's degree is in marriage and family therapy or its equivalent, the applicant must pass the Association of Marital and Family Therapy Regulatory Boards examination (AMFTRB).

- (ii) If the applicant's degree is in social work or its equivalent, the applicant must pass the Association of Social Work Boards Clinical examination (ASWB).
- (iii) If the applicant's degree is a mental health related counseling degree, the applicant must pass:
 - (1) The National Board of Certified Counselor's National Counselor Examination (NBCC/NCE);
 - (2) The National Board of Certified Counselor's National Clinical Mental Health Counselor Examination (NBCC/NCMHCE);
 - (3) The Commission on Rehabilitation Counselor Examination (CRC);
 - (4) The Examination for Professional Practice in Psychology (EPPP); or
 - (5) Any other examination determined by the Board to be equivalent.

010.02(E) EXAMINATION PASSING SCORES. The passing score on each of the examinations is set out as follows:

- (i) The passing score on the National Board of Certified Counselor's National Examination is determined using the Angoff method for the National Clinical Mental Health Counselor examination and a modified Angoff method for the National Board of Certified Counselor's National Counselor Examination.
- (ii) The passing score on the Association of Marital and Family Therapy Regulatory Boards examination (AMFTRB) is determined by using a modified Angoff method.
- (iii) The passing score on the Commission on Rehabilitation Counselor Examination (CRC) is determined using a conjunctive scoring model.
- (iv) The passing score on the Association of Social Work Boards Examination is 75.
- (v) The passing score on the Examination for Professional Practice in Psychology (EPPP) is a scaled score of 500.

010.02(F) RECIPROCITY. An applicant who is applying based on reciprocity and practice for at least 5 years following licensure, is required to pass the Nebraska jurisprudence examination with a score of at least 75%.

011. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The applicant must meet the requirements set out in 172 NAC 10 and this chapter. All licenses and certifications issued by the Department expire on September 1st of each even-numbered year.

012. CONTINUING EDUCATION REQUIREMENTS. During the 24 months prior to the renewal date, individuals holding active licenses and certifications in the State of Nebraska must complete at least 32 hours of acceptable continuing education hours related to mental health practice during the preceding 24-month period.

012.01 GENERAL REQUIREMENTS. Applicants must meet the following continuing education requirements:

- (A) All license and certificate holders must complete at least 4 hours of continuing education in ethics.
- (B) All licensed independent mental health practitioners must complete at least 6 hours of continuing education relating to diagnosis and treatment of major mental disorders.

012.02 LICENSEES WHO HOLD AN ASSOCIATED CERTIFICATE. An individual who holds an independent mental health practice license or mental health practice license and an associated certificate(s) is not required to earn continuing education hours for each additional certificate.

012.03 TYPES OF ACCEPTABLE CONTINUING EDUCATION AND HOUR DETERMINATIONS. The following provides the types of continuing education that is considered acceptable for renewal and reinstatement and the hour determinations:

- (A) Completing academic credit during the renewal period. Academic credit is determined as follows:
 - (i) 1 academic semester credit equals 15 continuing education credit hours and 1 credit audited equals 8 hours of continuing education.
 - (ii) 1 academic quarter credit equals 10 continuing education credit hours and 1 credit audited equals 5 hours of continuing education.
 - (iii) 1 academic trimester credit equals 14 continuing education credit hours and 1 credit audited equals 7 hours of continuing education.
- (B) Hours for teaching an academic course or supervising a practicum or internship is determined the same as 172 NAC 012.03(A) above.
- (C) 6 hours per renewal period can be obtained for supervising a provisional licensee or provisional certificate holder.
- (D) Hours for completing home study or video programs, including those transmitted through electronic means, are determined by the provider of the program.
- (E) Authoring a peer reviewed publication equals 16 hours.
- (F) 60 minutes equals 1 continuing education hour when attending or participating workshops, lectures, or interactive webinars.

012.04 WORKSHOP PRESENTERS OR ACADEMIC INSTRUCTORS. An individual may receive credit for the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program or course.

012.05 NON-ACCEPTABLE CONTINUING EDUCATION. Non-acceptable subject matter for continuing education credit includes, but is not limited to the following:

- (A) Leadership training provided through associations;
- (B) Business technology, business techniques, and management; and
- (C) Association business meeting or delegate report.

013. UNPROFESSIONAL CONDUCT. Unprofessional conduct includes but is not limited to the acts set out in Neb. Rev. Stat. §38-179 and these regulations.

013.01 COMPETENCE. A credential holder must not provide services for which he or she is not trained or experienced, unless he or she associates with another credential holder with established competence in the service or obtains the knowledge through necessary study. A credential holder must not encourage or promote the practice of mental health services, social work, professional counseling, or marriage and family therapy by untrained or unqualified persons.

013.02 CONFIDENTIALITY. A credential holder must hold in confidence information received from a potential client with respect to the service requested, except in those unusual

circumstances in which to do so would result in clear danger to the person or to others, or where otherwise required or permitted by law. A person who communicates information unilaterally to a credential holder without a reasonable expectation that the credential holder is willing to form a client-therapist relationship, is not a potential client.

013.03 DISCLOSURE OF CONFIDENTIAL INFORMATION. A person credentialed or certified pursuant to these regulations must not disclose any information he or she may have acquired from a client or patient, except:

- (A) With the written consent of such person;
- (B) In the case of death or disability when the client or patient is unable to consent, with the consent of a person legal authorized to consent on behalf of the decedent or client or patient;
- (C) When more than one person in a family received therapy conjointly, each such family member who is legally competent to execute a waiver must agree to the waiver referred to in this section. Without such a waiver from each family member legally competent to execute a waiver, a practitioner must not disclose information received from any family member who received therapy conjointly for any therapy session where the non-consenting family member was present;
- (D) As such privilege is limited by the laws of the state of Nebraska;
- (E) When the person waives the privilege by bringing charges against the credential holder; and
- (F) When there is a duty to warn under the limited circumstances set forth in Neb. Rev. Stat. § 38-2137.

013.04 DISCRIMINATION. Credential holders must provide professional assistance to clients or patients without discrimination on the basis of race, color, religion, sex, disability, marital status, national origin, age, familial status, and ancestry.

013.05 DUAL RELATIONSHIP. Credential holders must make every effort to avoid dual relationships with clients that could impair professional judgment or increase the risk of exploitation. When a dual relationship cannot be avoided, credential holders must take appropriate professional precautions, such as seeking supervision or professional consultation, to ensure judgment is not impaired and no exploitation occurs. Dual relationships include, but are not limited to, business or close personal relationships with a client.

013.05(A) SEXUAL INTIMACY OR CONTACT. Sexual intimacy or contact with a client during the provision of professional services, 5 years preceding the provision of professional services, or with a former client less than 5 years following the last professional contact is prohibited.

- (i) Sexual Intimacy means any written, verbal, or physical behavior which a reasonable person would find to be sexually seductive or sexually demeaning. Sexual intimacy may or may not include sexual contact.
- (ii) Sexual contact includes sexual intercourse, either genital or anal, cunnilingus, fellatio, sodomy or the handling of breasts, genital areas, buttocks, or thighs whether clothed or unclothed, initiated or consented to by the credential holder.

013.05(B) EXPLOITATION. In the therapeutic relationship, credential holders need to be aware of the intimacy and responsibilities inherent in the therapeutic relationship and must

avoid actions that seek to meet their personal needs at the expense of clients. Credential holders must be aware of their influential positions with respect to clients, and they must avoid exploiting the trust and dependency of such persons. Credential holders, therefore, must make every effort to avoid conditions and multiple relationships with clients that could impair professional judgment or increase the risk of exploitation. Failure to comply with this standard is considered unprofessional conduct.

013.06 PROFESSIONAL RECORDS. Failure to comply with the following professional record requirements is unprofessional conduct:

- (A) Client records must be maintained a minimum of 5 years following termination of services. Records or documentation of the actual fact of clinical record destruction must be maintained for an additional 5 years;
- (B) Client records must be stored, safeguarded, and disposed of in ways that maintain confidentiality and in accord with applicable laws and professional standards;
- (C) Prior to the credential holder moving from the area, closing a practice, or prior to the death of the credential holder, a credential holder must arrange for the storage, transfer, or access to, or dispose of client records in ways that maintain confidentiality and safeguard the welfare of clients;
- (D) Client records must include a signed and dated informed consent agreement outlining confidentiality and the limitations of confidentiality, as well as the rights and responsibilities of the client in the client's file;
- (E) Client records must include documentation which reflect the services provided and include applicable release of information and discussions with other professionals; and
- (F) A credential holder must allow a client access to his or her records in accordance with Neb. Rev. Stat. §71-8401 to 71-8407.

013.07 PROFESSIONAL RELATIONSHIPS. A credential holder must safeguard the welfare of clients or patients and maintain professional relationships with clients or patients. Commission of any of the following acts or behavior constitutes unprofessional conduct.

- (A) Exploiting another person for one's own advantage;
- (B) Performing or agreeing to perform mental health services, social work, professional counseling, or marriage and family therapy that have been requested when such services are known to be contraindicated or unjustified;
- (C) Performing or agreeing to perform procedures that have been requested when such procedures are known to be outside of the mental health practice, social work, professional counseling, or marriage and family therapy scope of practice;
- (D) Verbally or physically abusing clients or patients;
- (E) Attempting to provide diagnostic or treatment information to patient(s) or client(s) that is beyond the credential holder's level of education, training, and expertise;
- (F) Failing to make a referral when a referral is in the patient's or client's best interest;
- (G) Delegating to other personnel those client or patient related services for which the clinical skills and expertise of a credential holder are required;
- (H) Failure to safeguard the patient's or client's dignity and right to privacy;
- (I) Failure to take reasonable steps to clarify at the outset the following:
 - (i) Who is the client or patient; and

- (ii) The relationship the practitioner will have with each person if there are multiple individuals present. This clarification includes the practitioner's role, the probable services to be provided, and the probable uses of the information obtained; or
- (J) Committing any act which endangers client or patient safety or welfare.

013.08 REFERRALS. If, for any reason, a credential holder is unable to provide therapeutic services to a client or patient, the credential holder must refer the client or patient to other credential holders. This may be done by directing the client or patient to specific credential holders or to a list or directory of credential holders who may be able to provide professional assistance. The referral must be documented in the client or patient's record. Failure to comply with this standard is unprofessional conduct.

013.09 SEXUAL HARASSMENT. A credential holder must not under any circumstances engage in sexual harassment of clients or patients. Sexual harassment includes making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature which results in:

- (A) Providing or denying care to a client or patient;
- (B) Creating an intimidating, hostile, or offensive environment for the client or patient; or
- (C) Interfering with a patient's or client's ability to recover.

013.10 STUDENTS AND SUPERVISEES. Failure to comply with the following is considered unprofessional conduct:

- (A) A credential holder must not exploit the trust and dependency of students and supervisees.
- (B) A credential holder must be aware of his or her influential positions with respect to students and supervisees, and they must avoid exploiting the trust and dependency of such persons. Credential holders, therefore, must make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists must take appropriate precautions.
- (C) A credential holder must not provide professional services to current students or supervisees.
- (D) A credential holder must not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the credential holder and students or supervisees.
- (E) A credential holder must take reasonable measures to ensure that professional services provided by supervisees are within the supervisees training, level of experience, and competence.
- (F) A credential holder must avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the credential holder's objectivity. When such situations cannot be avoided, credential holders must take appropriate precautions to maintain objectivity. Such relationships include, but are not limited to, those individuals with whom the credential holder has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.
- (G) A credential holder must not disclose information from a supervisee about a client or patient which is obtained as part of a professional relationship except with written authorization or waiver from or by the client or patient, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors,

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disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee.

- (H) A credential holder must sign-off as completed a supervisee's hours of experience, when the hours have been completed.

013.11 FAILURE TO COOPERATE WITH INVESTIGATIONS. Refusal to cooperate or failure to furnish requested information during any investigation by the Department.

014. REINSTATEMENT. The applicant must meet the requirements set out in 172 NAC 10.

015. FEES. Fees are set out in 172 NAC 2.