4747.1400 RULES OF PROFESSIONAL CONDUCT.

Subpart 1. **Scope.** The rules of professional conduct apply to the conduct of all licensees and applicants, including conduct during the periods of education, training, and employment required for licensure. A licensee must comply with this part notwithstanding any contrary policies of an employer or contractor.

Subp. 2. **Purpose.** The rules of professional conduct constitute the standard against which professional behavior of alcohol and drug counselors is measured.

Subp. 3. **Violations.** A violation of the rules of professional conduct constitutes unprofessional or unethical conduct and is a sufficient cause for disciplinary action or denial of licensure. Alcohol and drug counselors must not engage in any unprofessional conduct. Unprofessional conduct includes any conduct violating this chapter.

Subp. 4. **Integrity.** An alcohol and drug counselor:

A. must be truthful in dealing with clients, students, volunteers, colleagues, and the public;

B. must not perform, nor present himself or herself as able to perform, services beyond his or her field of competence. Licensed status is not a claim, promise, or guarantee of successful service and must not be used as such. Licensed status must not be used to imply competence in other human services occupations, as defined in part 4695.0600;

C. must not permit students, volunteers, or interns under supervision to perform, or represent themselves as able to perform, services beyond the students', volunteers', or interns' skill levels;

D. must not participate in any illegal activities involving drug or alcohol use, possession, sale, or distribution;

E. must make decisions regarding the continuation or the termination of professional services to a client based upon clinical need;

F. must not give or take any commission, rebate, or other form of compensation for the referral of clients for alcohol or drug counseling services or other professional services;

G. must not advertise in a way likely to deceive or defraud the public including, but not limited to, promises of a cure, misrepresentation of professional licensure status or other credential, or the disparagement of any treatment modalities;

H. must not use a client's or former client's name, image, or statements without the written consent of the client or former client;

I. must not knowingly solicit individuals who are receiving drug or alcohol counseling services from another licensed alcohol and drug counselor;
J. must not submit false or misleading information to the board; and

K. must provide information in response to a written request by the board within 30 days of the date of the request.

Subp. 5. **Relations to clients.**

A. An alcohol and drug counselor's primary professional responsibility is to the welfare of the client. Alcohol and drug counselors must respect the right of a client to make decisions regarding personal relationships with family members, friends, and community and must help the client understand the consequences of those decisions.

B. Alcohol and drug counselors must have no sexual contact with clients, as defined in Minnesota Statutes, section 148A.01, subdivision 7. Engaging in sexual contact with a client or former client as defined in Minnesota Statutes, section 148A.01; engaging in any contact that may be reasonably interpreted by a client as sexual; engaging in any verbal behavior that is seductive or sexually demeaning to the client; or engaging in sexual exploitation of a client or former client is prohibited. Conduct by an alcohol and drug counselor which may reasonably be interpreted by a client as sexual, and any verbal behavior which is seductive or sexually demeaning to the client, or any sexual exploitation of a client, is prohibited.

C. In the provision of services, alcohol and drug counselors must not discriminate on the basis of HIV status or any of the grounds listed in Minnesota Statutes, chapter 363. When unable to offer services, a counselor must make an appropriate referral.

D. Alcohol and drug counselors must recognize the influential position the counselor may have with respect to clients and must not exploit the trust and dependency of clients. A counselor must avoid dual relationships with clients that could impair the counselor's professional judgment or increase the risk of exploitation.

E. Alcohol and drug counselors must not use language of an abusive or obscene nature, including, but not limited to, name-calling, verbal put-downs, threats of harm, false accusations, or sexual jokes.

F. Alcohol and drug counselors must not engage in physical or any other abuse of clients, including, but not limited to, isolating clients from others without therapeutic basis, intimidation, possessiveness, or harassment of any kind.

G. Alcohol and drug counselors must accept no gifts of over $10 in value from a client.

H. Alcohol and drug counselors must comply with all laws concerning the reporting of abuse of children under Minnesota Statutes, section 626.556, and vulnerable adults under Minnesota Statutes, section 626.557.
I. Alcohol and drug counselors must maintain all client information as private during the professional relationship and after the relationship has terminated.

Subp. 6. **Relations to students and interns.** Alcohol and drug counselors must not use or exploit their professional relationships with students, interns, volunteers, trainees, employees, independent contractors, colleagues, research subjects, or actual or potential witnesses or complainants in disciplinary proceedings in any manner through sexual or other harassment, or therapeutic deception for the counselor's emotional, financial, personal, political, religious, or sexual advantage or benefit. Alcohol and drug counselors must not engage in sexual contact, as defined in Minnesota Statutes, section 148A.01, with students, interns, or volunteers whom the counselor is directly supervising.

Subp. 7. **Client privacy and confidentiality.** Applicants and licensees not subject to item A are governed by items B, C, and D.

A. Confidentiality and disclosure of client records must be governed by all applicable laws, including, but not limited to Minnesota Statutes, chapters 13 and 148C, and Code of Federal Regulations, title 42, parts 2.1 to 2.67.

B. Code of Federal Regulations, title 42, parts 2.1 to 2.67, is incorporated by reference and applies to licensees who do not maintain client records in connection with the performance of any federally assisted alcohol and drug abuse program.

C. An alcohol and drug counselor must inform a client that self-disclosure in group therapy may result in a loss of confidentiality and client privacy.

D. Licensees governed by item B must, in addition to providing the notice required by Code of Federal Regulations, title 42, part 2.22, make disclosure of items mandated to be reported under Minnesota Statutes, section 626.557, to authorized report receivers without client consent.

Subp. 8. **Client welfare.**

A. Clients have the right and the counselor has an obligation to provide, on request, a clear explanation of the nature and purposes of the counseling procedures to be used and the results of any tests administered to the client.

B. A client whose treatment involves the use of a newly developed service, technique, or specialty must be informed of its innovative nature and of known risks associated with it.

C. Alcohol and drug counselors must conduct research activities with full respect for the rights and dignity of clients and with full concern for their welfare. Client participation in research is voluntary and is subject to the provisions of Code of Federal Regulations, title 45, parts 46.101-409.
D. A professional relationship between a licensee and a client terminates when the licensee or the client formally notifies the other verbally or in writing, or two years after the last contact in an alcohol and drug counseling capacity between the licensee and the client.

Subp. 9. **Competency in practice with ethnic minority, disabled, and identified population group clients.**

A. A licensee meets the standards in part 4747.1100, subpart 2, when practicing alcohol and drug counseling with a client who is a member of an ethnic minority group, an identified population group, or a client with a disability by acting according to this subpart. If a licensee is inexperienced as compared to other licensees or the professional community's standard of care in practicing alcohol and drug counseling with ethnic minority, identified population, or disabled clients, the licensee:

1. engages in ongoing consultation with a licensee who meets the professional community's standard of care with respect to such clients;

2. practices under the supervision of a licensee who meets the professional community's standard of care with respect to such clients; or

3. refers the client to a licensee who meets the professional community's standard of care with respect to such clients.

B. An alcohol and drug counselor fluently speaks the primary or preferred language of the client, works with a certified or qualified interpreter according to Minnesota Statutes, section 546.44, and uses the services of a certified or qualified interpreter or refers the client to a licensee who either is fluent in the client's primary or preferred language or works with qualified interpreters.

C. Licensees who practice alcohol and drug counseling with deaf, deaf-blind, hard-of-hearing, or late-deafened clients:

1. are proficient in American Sign Language at the advanced-plus level or higher of the Sign Communication Proficiency Interview (SCPI) ratings, if the client's primary or preferred language is American Sign Language; or

2. are trained in working with and work with an American Sign Language interpreter who qualifies as both a certified interpreter and a certified transliterator by the Registry of Interpreters for the Deaf or certified at level four or higher by the National Association of the Deaf; or

3. refer the client to a licensee who is either proficient in American Sign Language at the advanced-plus or higher level or who is trained to work with a certified American Sign Language interpreter or transliterator. Licensees who practice with such
clients must submit a statement signed by a supervisor that the licensee has demonstrated a minimum proficiency in practicing with such clients.

D. Licensees inexperienced compared to the professional community's standard of care in practicing alcohol and drug counseling with members of identified population groups:

(1) engage in ongoing consultation with a licensee who meets the professional community's standard of care with respect to such clients;

(2) practice under the supervision of a licensee who meets the professional community's standard of care with respect to such clients; or

(3) refer the client to a licensee who meets the professional community's standard of care with respect to such clients.

Subp. 10. Impaired objectivity or effectiveness.

A. An alcohol and drug counselor must make an appropriate referral for a client or potential client if the counselor's objectivity or effectiveness is impaired.

B. An alcohol and drug counselor's objectivity or effectiveness is impaired if the counselor:

(1) has a dual relationship with a client;

(2) is dysfunctional as a result of a severe physical or mental health problem, including the abuse of drugs or alcohol;

(3) exploits or has exploited the professional relationship for the counselor's emotional, financial, sexual, or personal advantage or benefit; or

(4) holds convictions that interfere with the professional relationship.

C. An alcohol and drug counselor must not practice while under the influence of alcohol or other controlled substances not prescribed by a physician. An alcohol and drug counselor must not use or possess controlled substances as defined by Minnesota Statutes, chapter 152, unless prescribed by, and used in accordance with the direction of, a practitioner, as defined by Minnesota Statutes, section 151.01, subdivision 23.

Subp. 11. Public statements. Public statements made by an alcohol and drug counselor must not directly or by implication contain any false or misleading representations about professional qualifications such as education, experience, the license, affiliations, purposes, or characteristics of institutions and organizations with which the counselor is associated, or any other aspect of the professional services provided by the counselor.

Subp. 12. Fees and statements.
A. An alcohol and drug counselor must disclose the cost of services provided and must clearly explain financial matters to clients. Arrangements for fees and payments must be made at the beginning of the counseling relationship. Bartering for services is prohibited.

B. If alcohol and drug counseling services are requested or paid for by one person or agency on behalf of a client, the counselor must inform both parties that any information gained by the counselor in the course of rendering services to the client may not be disclosed to any third party, including the person or agency paying for the services without the informed, written consent of the client.

C. An alcohol and drug counselor must not aid or abet an unlicensed individual engaged in the practice of alcohol and drug counseling. An alcohol and drug counselor who supervises an individual engaged in supervised alcohol and drug counselor experience, an alcohol and drug counselor practicum, or an alcohol and drug counselor internship is not in violation of this part.

Subp. 13. Violation of law. An alcohol and drug counselor must not violate any law in which the facts giving rise to the violation involve the provision of alcohol and drug counseling services. In determining whether a violation involves the provision of alcohol and drug counseling services, the board must consider:

A. the nature of the violation the alcohol and drug counselor is alleged to have committed;

B. the relationship of the alleged violation to the purposes of regulating the practice of alcohol and drug counseling; and

C. the relationship of the violation to the ability, capacity, or integrity of the alcohol and drug counselor in rendering alcohol and drug counseling services. In any proceeding alleging a violation of this chapter, the proof of a conviction of a crime shall constitute proof of the factual elements necessarily underlying that conviction.

Statutory Authority: MS s 148C.03

History: 22 SR 1257; L 2003 c 118 s 28

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