

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**3000 BOARD OF PROFESSIONAL COUNSELORS OF MENTAL HEALTH AND CHEMICAL DEPENDENCY**  
**PROFESSIONALS**

Statutory Authority: 24 Delaware Code, Section 3006(a)(1) (24 **Del.C.** §3006(a)(1))  
24 **DE Admin. Code** 3000

**FINAL**

**ORDER**

**3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals**

**NATURE AND STAGE OF THE PROCEEDINGS**

On January 1, 2016, the Delaware Board of Mental Health and Chemical Dependency Professionals published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 19, Issue 7. This notice further indicated that written comments would be accepted by the Board for thirty days, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on January 27, 2016 at a regularly scheduled meeting of the Delaware Board of Mental Health and Chemical Dependency Professionals to receive verbal comments regarding the Board's proposed amendments to its regulations.

**SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

At the time of the deliberations, the Board considered the following documents:

**Board Exhibit 1** - Affidavit of publication of the public hearing notice in the *News Journal*; and

**Board Exhibit 2** - Affidavit of publication of the public hearing notice in the *Delaware State News*.

**Board Exhibit 3** - Letter dated February 10, 2016 from A.I. DuPont Hospital for Children supporting the regulations as proposed.

There was no verbal testimony given at the public hearing on January 27, 2016. No written comments were received by the Board during the initial thirty day public comment period; one public comment was submitted following the hearing in support of the proposed regulations during the fifteen day 29 **Del.C.** §10118(a) second public comment period.

**FINDINGS OF FACT AND CONCLUSIONS**

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.
2. There were no public comments provided to the Board during the first written public comment period, or the public hearing. There was one public comment submitted following the hearing that supported the regulations as proposed.
3. Pursuant to 24 **Del.C.** §3006(a)(1), the Board has statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.
4. The proposed changes seek to clarify and provide more detailed information regarding the use of telehealth services for the provision of Mental Health Counseling, Chemical Dependency Counseling, or Marriage and Family Therapy.
5. The Board finds no reason to amend the regulations as proposed.

**DECISION AND EFFECTIVE DATE**

Having found that the proposed changes to the regulations are necessary as outlined herein, the Board finds that the regulations shall be adopted as final in the form as proposed. The exact text of the regulations, as amended, are attached to this order as Exhibit A.

**SO ORDERED** this 24<sup>th</sup> day of February, 2016.

**BY THE DELAWARE BOARD OF MENTAL HEALTH AND CHEMICAL DEPENDENCY PROFESSIONALS**

Dr. Gregg Drevno, LPCMH (President)

Irvin Bowers, Public Member (Vice President)

Dr. Rosemary Madl-Young, LCDP, (Secretary)

Dr. William Northey, Jr., LMFT

Daniel Cherneski, LMFT  
Dr. Julius Mullen, LPCMH (absent)  
James Elder, LCDP (absent)  
Daniel Cooper, LPCMH

Ruth Banta, Public Member  
Elizabeth Vassas, Public Member  
Sherry Lambertson, Public Member (absent)

### **3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals**

#### **1.0 General**

- 1.1 Elections – The Board shall elect officers annually at the regular January meeting. The office of President must rotate among the professions regulated and the public members.
- 1.2 Governing Statute – Chapter 30 of Title 24 of the **Delaware Code** governs the Board and the professions under its purview. Licensees should look to the statute first for requirements, then to these regulations for clarification or elaboration. There are critical requirements in the statute that do not appear in these regulations.
- 1.3 Licensee Contact Information – It shall be the responsibility of all licensees to keep the Division of Professional Regulation (Division) informed of any change of address. Renewal notices will be sent to the last address on file with the Division.

**10 DE Reg. 872 (11/01/06)**

**11 DE Reg. 225 (08/01/07)**

**11 DE Reg. 1066 (02/01/08)**

#### **2.0 Licensure for Professional Counselors of Mental Health (LPCMH)**

##### **2.1 Licensure by Certification Requirements**

- 2.1.1 Certification - The applicant for licensure by certification shall be certified by the National Board for Certified Counselors, Inc. (NBCC) as a National Certified Counselor (NCC), or by another certifying organization acceptable to the Board. This certification shall be verified by the “NBCC Certification Form,” or the “Certifying Organization Certification Form,” submitted directly to the Board by the certifying organization.
  - 2.1.1.1 Certifying organizations acceptable to the Board shall include NBCC or other certifying organizations that meet all of the following criteria:
    - 2.1.1.1.1 The organization shall be a national professional mental health organization recognized as setting national standards of competence in Clinical Mental health Counseling.
    - 2.1.1.1.2 The organization shall require the applicant to take a standardized examination designed to test his/her understanding of the principles involved in the mental health specialty for which he/she is being certified. Certification shall be based upon the applicant's attaining the minimum passing score set by the organization.
    - 2.1.1.1.3 The organization shall prescribe a code of ethics substantially equivalent to that of the NBCC.
    - 2.1.1.1.4 The organization shall require the minimum of a master's degree in Clinical Mental Health Counseling.
  - 2.1.1.2 Individuals licensed prior to the effective date of this requirement must maintain certification or membership in the certifying organization, acceptable to the board at the time of their initial licensure in order to qualify for renewal of their license notwithstanding that such certifying organization is no longer deemed acceptable to the board.
- 2.1.2 Graduate Transcript. The applicant's master's degree in Clinical Mental Health counseling required by his/her certifying organization for certification, shall be documented by an official transcript submitted directly to the Board by the accredited educational institution granting the degree. In cases where an applicant's master's degree required remediation by the certifying organization the completion date of remediation courses shall be considered the conferment date of the degree of record for all matters before the Board.
- 2.1.3 Professional Counseling Experience means the accumulation of hours spent providing face to face professional mental health clinical counseling services with clients and other matters directly related to the treatment of clients, in an setting that is clearly designated to provide professional mental health clinical counseling services and is subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Educational or guidance counseling is not considered clinical mental health counseling. However, professional counseling experience done under the auspices of a mental health organization providing contracting services to a school or school system may be acceptable to the Board.

- 2.1.3.1 30 graduate semester hours or more attained beyond the master's degree, may be substituted for up to 1,600 hours of the required clinical experience, provided that hours are clearly related to the field of counseling and are acceptable to the Board. Graduate credit hours shall be verified by an official transcript submitted directly to the Board by the accredited educational institution at which the course work was done.
- 2.1.3.2 Supervised clinical experience or post-master's degree alternative shall be verified by the "Professional Experience Reference Form" or the "Verification of Self Employment" form.
- 2.1.4 Experience Applications must provide documentation of completion of 3,200 hours mental health counseling services, as defined in 24 Del.C. §3031(3), over a period of no less than two (2) but no more than four (4) consecutive years.
  - 2.1.4.1 Of the required 3,200 hours of total experience, 1,600 hours must have been completed under the professional direct supervision of an individual who meets the requirements of regulations 3.1.1. The 1,600 hours of supervised clinical experience must be fulfilled as follows:
    - 2.1.4.1.1 At least 1,500 of the 1,600 hours must be in the actual provision of face to face direct mental health counseling services. Of the 1,500 hours at least 750 of the hours must be individual face to face client sessions and must include the actual provision of direct mental health counseling services; the additional 750 hours may be individual, group, couple or family counseling services, or some combination of those services:
    - 2.1.4.1.2 One hundred (100) hours of face to face professional direct supervision with the applicant's supervisor. Face to face supervision includes both in person and live video conferencing providing supervision by live video conferencing does not exceed fifty percent (50%) of the total 100 hours of supervision.
      - 2.1.4.1.2.1 Individual Direct Supervision. Individual supervision shall consist of one to one, face to face meetings between LPCMH and LACMH. The entire 100 hour requirement may be fulfilled by individual supervision.
      - 2.1.4.1.2.2 Group Supervision. Group supervision shall consist of face to face meetings between LPCMH and no more than six (6) LACMH. No more than 40 hours of group supervision shall be acceptable towards fulfillment of the 100 hour direct supervision requirement.
  - 2.1.4.2 Hours completed under the supervision of an individual who does not meet the requirements of 3.1.1 will not count towards the fulfillment of the 1,500 hours of supervised experience but may count towards the fulfillment of the 1,600 hours of experience not required to be a supervised.
  - 2.1.4.3 Supervision shall be verified by the "Direct Supervision Reference Form," which must be submitted directly to the Board by the approved clinical supervisor. Each supervisor must affirm that the LAMHC is prepared to practice independently without reservations.
  - 2.1.4.4 Supervised professional counseling experience shall consist of 1,600 hours of clinical experience, directly supervised by a LPCMH. Where direct supervision by a LPCMH is not available, an alternative supervisor maybe requested of the Board provided it complies with 3.1.1.
  - 2.1.4.5 Direct Supervision. 1600 hours of direct supervision acceptable to the Board shall mean supervision overseeing the supervisee's application of clinical counseling principles, methods or procedures to assist individuals in achieving more effective personal and social adjustment. At least 100 of the 1600 hours of supervision shall consist of face to face consultation between a LPCMH (Supervisor) and a LACMH (Supervisee). Direct supervision may take place in individual and/or group settings, defined as follows:
    - 2.1.4.5.1 Individual Supervision shall consist of one-to-one, face-to-face meetings between a LPCMH (Supervisor) and LAMCH (Supervisee).
    - 2.1.4.5.2 Group Supervision shall consist of face-to-face meetings between LPCMH (Supervisor) and not more than six (6) LACMH (Supervisees).
    - 2.1.4.5.3 Supervisory Setting. No more than 40 hours of group supervision shall be acceptable toward the 100-hour requirement. The entire 100-hour requirement may be fulfilled by individual supervision.
- 2.2 Licensure by Reciprocity Requirements
  - 2.2.1 Proof of Licensure Status - The applicant shall hold an active professional counseling license in good standing from another state. Verification of licensure status shall be submitted directly to the Board by that state on the "Verification of Licensure or Certification from Another State" form.
  - 2.2.2 Notarized Statement of Prior Licensing Jurisdictions - The applicant shall submit a notarized statement listing all licensing jurisdictions in which he/she formerly practiced and a signed "Release of Information"

granting the Board permission to contact said jurisdictions for verification of disciplinary history and current status.

2.2.3 Determination of Substantial Similarity of Licensing Standards - The applicant shall submit a copy of the statute and rules of licensure from the state issuing his/her license. The burden of proof is upon the applicant to demonstrate that the statute and rules of the licensing state are at least equivalent to the educational, experience and supervision requirements of this State. Based upon the information presented, the Board shall make a determination regarding whether the licensing requirements of the applicant's licensing state are substantially similar to those of Delaware.

2.2.4 LACMH Option - If the Board determines that the requirements of the applicant's licensing state are not substantially similar to those of Delaware with regard only to the experience requirements, the applicant shall be eligible for licensure as an LACMH, in which case he/she shall have four (4) years to complete the supervision requirements. The applicant shall be given full credit for such properly documented experience and/or supervised experience as was required for licensure in his/her licensing state.

## 2.3 License Renewal

2.3.1 Renewal Date - The LPCMH license shall be renewable biennially on September 30<sup>th</sup> of even-numbered years. License renewal is accomplished online at the Division of Professional Regulation's website.

2.3.2 Requirements for Renewal are as follows:

2.3.2.1 Certification - The candidate for renewal shall hold current certification in good standing as of the date of licensure renewal in NBCC or other certifying organization acceptable to the Board. This certification shall be verified by attestation. Attestation shall be completed electronically.

2.3.2.2 Continuing Education (CE) Requirements

2.3.2.2.1 Purpose – The CE requirement is intended to maintain licensees' professional competence in the practice of professional mental health counseling, marriage and family therapy, and chemical dependency counseling.

2.3.2.2.2 Licensees must complete at least 40 acceptable CE hours during the previous licensure period in order to renew their license. CE requirements for initial licensure periods of less than two (2) years shall be prorated as follows:

2.3.2.2.2.1 If the license was granted between April 1 and September 30 of an even-numbered year, the licensee must complete 0 hours of CE during his or her initial licensing period.

2.3.2.2.2.2 If the license was granted between October 1 of an odd-numbered year and March 31 of an even-numbered year, the licensee must complete 10 hours of CE during his or her initial licensing period.

2.3.2.2.2.3 If the license was granted between April 1 and September 30 of an odd-numbered year, the licensee must complete 20 hours of CE during his or her initial licensing period.

2.3.2.2.2.4 If the license was granted between October 1 of an even-numbered year and March 31 of an odd-numbered year, the licensee must complete 30 hours of CE during his or her initial licensing period.

2.3.2.2.3 Acceptable CE shall include the following:

2.3.2.2.3.1 CE hours approved by a national mental health organization or substance abuse treatment organization or their local affiliates, such as the National Board for Certified Counselors, Inc. (NBCC), American Association for Marriage and Family Therapy (AAMFT), the International Family Therapy Association (IFTA), NAADAC, The Delaware Certification Board, Inc. or National Association for Social Work (NASW), or the American Psychological Association (APA) are acceptable, regardless of course content, and do not need to be approved by the Board.

2.3.2.2.3.2 Any activity that would achieve the purpose of the CE requirement, explained in subsection 2.3.2.2.1 above, is acceptable and does not require Board review and approval. Examples include, but are not limited to, interactive courses, workshops, seminars and webinars.

2.3.2.2.3.2.1 Courses that do not clearly achieve the purpose of CE require Board approval. Licensees should request Board approval in advance of attendance. Requests for approval may be submitted afterward, but there is no guarantee of approval. These hours must be documented by a course agenda, syllabus, or other brief documentation that would allow the Board to assess the appropriateness of the course content. Only licensees may request course approvals. Sponsoring organizations may not request course approvals.

- 2.3.2.2.3.3 Teaching academic or CE courses, presentation of original papers, or the writing of a peer-reviewed article may account for up to 20 CE hours. These hours are to be documented by an official transcript, syllabus, or a copy of the published paper presented.
- 2.3.2.2.3.4 Any education or training that is not interactive/does not occur in real time with an instructor and students, trainees, or participants, may only account for a maximum of 50% of the CE requirement. Examples include, but are not limited to, reading of professional education materials, correspondence courses and static online courses.
- 2.3.2.2.4 Make-Up of Disallowed Hours - In the event that the board disallows certain continuing education clock hours, the licensee shall have three (3) months after the date of the Board's notice that the hours have been disallowed to complete the balance of acceptable CE hours required.
- 2.3.2.3 Hardship – The Board shall have the authority to make exceptions to the CE requirements, in its discretion, upon a showing of good cause. “Good Cause” may include, but is not necessarily limited to: disability, illness, military service, extended absence from the jurisdiction, or exceptional family responsibilities. Request for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. A license shall be renewed upon approval of the hardship extension by the Board.
- 2.3.2.4 Verification of CE hours shall be by attestation. Attestation shall be completed electronically.
- 2.3.3 Post-Renewal Audit – The Board will conduct random audits of renewal applications to ensure the veracity of attestations and compliance with the CE requirements. Licensees selected for the random audit shall submit CE course attendance verification in the form of a certificate signed by the course presenter or by a designated official of the sponsoring organization. Licensees shall retain their CE course attendance documentation for each licensure period. Licensees shall retain their CE course attendance documentation for at least one (1) year after renewal. Licensees found to be deficient or found to have falsely attested may be subject to disciplinary proceedings and may have their license suspended or revoked. Licensees renewing during the late renewal period shall be audited.

## 2.4 Inactive Status

- 2.4.1 A request must be submitted to have a license placed on inactive status. Inactive status is effective immediately upon Board approval. The inactive status may continue for five years from the date of Board approval. An inactive license shall terminate at the end of the five-year period unless the license is returned to active status before the end of the five-year period.
- 2.4.2 Return to Active Status – Before the end of the then current two-year licensure period, a license shall be returned to active status upon fulfillment of the following requirements by the licensee:
  - 2.4.2.1 Written Request – Submit a written request to have the license returned to active status.
  - 2.4.2.2 Certification – Provide proof of certification in good standing by NBCC or another certifying organization acceptable to the Board pursuant to regulation 2.1.1.1.
  - 2.4.2.3 Continuing Education – Provide proof of completion of 40 hours of acceptable CE, obtained within the two (2) year period immediately preceding the request for return to active status.
  - 2.4.2.4 Fee – Pay the licensure renewal fee. No late fee shall be assessed for return to active status.
- 2.5 Ethics - The practice of all persons licensed as an LPCMH shall conform to the principles of the National Board for Certified Counselors’ Code of Ethics (Code). Violation of the Code shall constitute grounds for discipline.

**4 DE Reg. 970 (12/1/00)**

**5 DE Reg. 2109 (5/1/02)**

**10 DE Reg. 872 (11/01/06)**

**11 DE Reg. 225 (08/01/07)**

**11 DE Reg. 1066 (02/01/08)**

**15 DE Reg. 1055 (01/01/12)**

**16 DE Reg. 105 (7/01/12)**

**17 DE Reg. 755 (01/01/14)**

**18 DE Reg. 900 (05/01/15)**

**18 DE Reg. 902 (05/01/15)**

## 3.0 Licensure for Associate Counselors of Mental Health (LACMH)

- 3.1 Experience. LACMH applicants must provide a written plan for acquiring the LPCMH experience requirements contained in regulation 2.1.3 above. The plan must be signed by the applicant's proposed supervisor. Supervisors must be acceptable to the Board.

- 3.1.1 To be acceptable to the Board, the supervisor must have been in practice for two years post licensure in this or any other jurisdiction without having been subject to any disciplinary actions; and
- 3.1.2 Must have obtained a minimum of six hours of CEs in Clinical Supervision within two years of the application to be an acceptable supervisor for an LAMCH or LPCMH, or have a Center for Continuing Education's Approved Clinical Supervisor or other National Behavioral Health Organization's supervisor credential in good standing acceptable to the board.
- 3.1.3 The Supervisor should be a Delaware LPCMH. If a Delaware LPCMH is not available, the LACMH applicant may request approval from the board for the utilization of a professionally licensed professional by the Delaware Board of Mental Health and Chemical Dependency Professionals provided the applicant can document a compelling reason to utilize another licensed professional and the supervisor can demonstrate sufficient competence to supervise a LACMH.
- 3.1.4 If a supervisor licensed by this board is not available, the LACMH applicant may request approval from the board for supervision from a licensed professional counselor of mental health from another state who has held a license in good standing for a minimum of five (5) years in that state, has a certification from the National Board of Certified Counselors, and is pre approved by the Board.
- 3.1.5 Only if one of the above professionals is not available, an individual with any of the following licenses in any state and training in professional mental health counseling supervision can be used: clinical social worker, psychologist practicing in the clinical realm, or physician specializing in psychiatry if the supervisor is pre approved by the Board.
- 3.1.6 If a proposed supervisor is not a professional licensed by the Delaware Board of Professional Counselors of Mental Health and Chemical Dependency Counselors, the proposed supervisor must attest, on a form provided by the Board for this purpose, that he/she has read and is familiar with the requirements for licensure in Delaware, including the applicable statutes, rules and regulations; that he/she has a minimum of five years of good standing, post licensure experience; and that she/he has the training to provide clinical supervision.
- 3.2 Licensees must notify the Board in writing, on the Board approved form, within 30 days if there is a change in the clinical supervision. Any supervisor must meet the requirements of 3.1.1. All changes are subject to Board approval. To obtain approval contact the Board office or to the website [www.dpr.delaware.gov](http://www.dpr.delaware.gov) to obtain the proper form.
- 3.3 Ethics. The practice of all persons licensed as an LAMCH shall conform to the principles of the National Board for Certified Counselors' Code of Ethics (Code). Violation of the Code shall be grounds for discipline.

**4 DE Reg. 970 (12/1/00)**

**10 DE Reg. 872 (11/01/06)**

**11 DE Reg. 1066 (02/01/08)**

**16 DE Reg. 105 (7/01/12)**

**19 DE Reg. 663 (01/01/16)**

#### **4.0 Licensure for Chemical Dependency Professionals (LCDP)**

##### **4.1 Licensure by Certification Requirements**

- 4.1.1 Education. The applicant's master's degree shall be documented by an official transcript submitted directly to the Board by the degree-granting institution.
- 4.1.2 Experience. Counseling experience shall be defined as the accumulation of 3,200 hours in no less than two years, providing chemical dependency services in a professional clinical setting, including face-to-face interaction with clients and other matters directly related to the treatment of clients. Supervision shall be verified by the "Supervision Reference Form," which shall be submitted directly to the Board by the approved clinical supervisor.
  - 4.1.2.1 At least 1500 of the 1600 hours required to be supervised must be in the actual provision of face to face direct chemical dependency counseling services.
    - 4.1.2.1.1 At least 750 of these 1500 hours must be individual face to face client sessions and must include the actual provision of direct chemical dependency counseling services.
    - 4.1.2.1.2 The remaining 750 hours may be individual, group, couple, family counseling services, or some combination thereof.
    - 4.1.2.1.3 At least 100 of these 1600 hours must be face to face professional direct supervision with the applicant's supervisor. Face to face supervision includes both in person and live video conferencing so long as supervision by live video conferencing does not exceed fifty percent (50%) of the total 100 hours of supervision.

- 4.1.2.1.3.1 Individual Direct Supervision. Individual supervision shall consist of one to one, face to face meetings between supervisor and supervisee. The entire 100 hour requirement may be fulfilled by individual supervision.
          - 4.1.2.1.3.2 Group Supervision. Group supervision shall consist of face to face meetings between supervisor and no more than eight supervisees. No more than 40 hours of group supervision shall be acceptable towards fulfillment of the 100 hour direct supervision requirement.
    - 4.1.2.2 If a proposed supervisor is not a professional licensed by the Delaware Board of Professional Counselors of Mental Health and Chemical Dependency Counselors, the proposed supervisor must attest, on a form provided by the Board for this purpose:
      - 4.1.2.2.1 That s/he has read and is familiar with the requirements for licensure as a Chemical Dependency Professional in Delaware, including the applicable statute and these regulations;
      - 4.1.2.2.2 That s/he has read and is familiar with either the DCB or NADAAC Code of Ethics;
      - 4.1.2.2.3 That s/he has been a licensed professional in good standing for at least five years; and
      - 4.1.2.2.4 That s/he has been appropriately trained to provide clinical supervision.
  - 4.1.3 Certification. To be licensed by certification an applicant must be certified by the National Association for Addictions Professionals (NAADAC) as a National Certified Addictions Counselor (NCAC) or Master Addictions Counselor (MAC), by the Delaware Certification Board (DCB Inc.) as a Certified Alcohol and Drug Counselor (CADC), or by another certifying organization acceptable to the Board.
    - 4.1.3.1 Another certifying organization must meet all of the following criteria to be acceptable to the Board:
      - 4.1.3.1.1 The organization shall be a national professional chemical dependency organization recognized as setting national standards of clinical competency;
      - 4.1.3.1.2 The organization shall require the applicant to take and pass a standardized examination designed to test his understanding of the principles involved in the chemical dependency specialty for which he is being certified; and
      - 4.1.3.1.3 The organization shall prescribe a code of ethics substantially equivalent to NAADAC's.
    - 4.1.3.2 At the time of initial licensure, licensees must provide evidence of active certification in good standing by an organization acceptable to the Board. If a licensee is certified by an organization that thereafter is deemed not acceptable by the Board, the licensee must obtain certification from an acceptable organization to qualify for licensure renewal.
- 4.2 Licensure by Reciprocity Requirements
  - 4.2.1 Licensure Status. Verification of an applicant's possession of a current LCDP in good standing from another state, the District of Columbia, or U.S. territory must be submitted directly to the Board by that state, the District of Columbia, or U.S. territory.
  - 4.2.2 Prior Licensing Jurisdictions. The applicant must submit a notarized statement listing all licensing jurisdictions in which he previously practiced and must submit a signed "Release of Information" granting the Board permission to contact those jurisdictions for verification of disciplinary history and current status.
  - 4.2.3 Substantial Similarity of Licensing Standards. Applicants must submit the statute, rules, and regulations governing chemical dependency licensure requirements for the state in which they are currently licensed and through which they are seeking reciprocity. The burden of proof is on the applicant to demonstrate that the licensing standards of that state are substantially similar to Delaware's standards. The Board will make a determination of substantial similarity based on the information presented. If applicants are actively licensed in multiple states, only one state's licensure requirements need to be substantially similar for the applicant to obtain Delaware licensure by reciprocity.
  - 4.2.4 No Substantial Similarity of Licensing Standards. Applicants from states whose licensing standards are not substantially similar to Delaware's standards may receive reciprocal licensure if they have held their license in good standing for at least five (5) years and are certified pursuant to regulation 4.1.3.
- 4.3 License Renewal
  - 4.3.1 Renewal Date. The LCDP shall be renewable biennially on or before September 30<sup>th</sup> of even-numbered years. License renewal is accomplished online at the Division of Professional Regulation's website.
  - 4.3.2 Requirements for Renewal are as follows:
    - 4.3.2.1 Certification. As of the renewal date, licensees must be certified by and in good standing with DCB Inc., NAADAC, or by another certifying organization acceptable to the Board pursuant to regulation 4.1.3. Certification shall be verified by attestation. Attestation shall be completed electronically.
    - 4.3.2.2 Continuing Education (CE) Requirements.

- 4.3.2.2.1 Purpose. The CE requirement is intended to maintain licensees' professional competence in the practice of mental health counseling, marriage and family therapy and chemical dependency counseling.
  - 4.3.2.2.2 Licensees must complete at least 40 acceptable CE hours during the previous licensure period in order to renew their license. CE requirements for initial licensure periods of less than two (2) years shall be prorated, as follows:
    - 4.3.2.2.2.1 If the license was granted between April 1 and September 30 of an even-numbered year, the licensee must complete 0 hours of CE during his or her initial licensing period.
    - 4.3.2.2.2.2 If the license was granted between October 1 of an odd-numbered year and March 31 of an even-numbered year, the licensee must complete 10 hours of CE during his or her initial licensing period.
    - 4.3.2.2.2.3 If the license was granted between April 1 and September 30 of an odd-numbered year, the licensee must complete 20 hours of CE during his or her initial licensing period.
    - 4.3.2.2.2.4 If the license was granted between October 1 of an even-numbered year and March 31 of an odd-numbered year, the licensee must complete 30 hours of CE during his or her initial licensing period.
  - 4.3.2.2.3 Acceptable CE includes:
    - 4.3.2.2.3.1 CE courses approved by a national mental health or substance abuse treatment organization or their local affiliates, such as the National Board for Certified Counselors, Inc. (NBCC), American Association for Marriage and Family Therapy (AAMFT), the International Family Therapy Association (IFTA), NAADAC, The Delaware Certification Board, Inc. or National Association for Social Work (NASW), or the American Psychological Association (APA) are acceptable, regardless of course content, and do not need to be approved by the Board.
    - 4.3.2.2.3.2 Any activity that would achieve the purpose of the CE requirement, explained in subsection 4.3.2.2.1 above, is acceptable and does not require Board review and approval. Examples include, but are not limited to, interactive courses, workshops, seminars and webinars.
      - 4.3.2.2.3.2.1 Courses that do not clearly achieve the purpose of CE require Board approval. Licensees should request Board approval in advance of attendance. Requests for approval may be submitted afterward, but there is no guarantee of approval. These hours must be documented by a course agenda, syllabus, or other brief documentation that would allow the Board to assess the appropriateness of the course content. Only licensees may request course approvals. Sponsoring organizations may not request course approvals.
      - 4.3.2.2.3.3 Teaching academic or CE courses, presentation of original papers, or the writing of a peer-reviewed article may account for up to 20 CE hours. An official transcript, agenda, or syllabus must be provided to document course hours and content. A copy of the published paper presented must be provided to document hours and content. Only the hours worked in preparation and delivery of the items contained in 4.3.2.2.3.2 will be counted.
      - 4.3.2.2.3.4 Any education or training that is not interactive/does not occur in real time with an instructor and students, trainees, or participants, may only account for a maximum of 50% of the CE requirement. Examples include, but are not limited to, reading of professional education materials, correspondence courses and static online courses.
  - 4.3.2.2.4 Verification. Verification of CE hours shall be by attestation. Attestation shall be completed electronically.
  - 4.3.2.2.5 Hardship. The Board shall have the authority to make exceptions to the CE requirements, in its discretion, upon a showing of good cause. "Good Cause" may include, but is not limited to: disability, illness, military service, extended absence from the jurisdiction, or exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. A license shall be renewed upon approval of the hardship extension by the Board.
- 4.3.3 Post-Renewal Audit. The Board will conduct random audits of renewal applications to ensure the veracity of attestations and compliance with the renewal requirements. Licensees selected for the random audit shall submit CE course attendance verification in the form of a certificate signed by the course presenter or by a designated official of the sponsoring organization. Licensees shall retain their CE course attendance documentation for each licensure period and for at least one (1) year after renewal. Licensees found to be

deficient or found to have falsely attested may be subject to disciplinary proceedings and may have their license suspended or revoked. Licensees renewing during the late renewal period shall be audited.

- 4.3.3.1 Make-Up of Disallowed Hours - In the event that the Board disallows certain continuing education clock hours, the licensee shall have three months after the date of the Board's notice that the hours have been disallowed to complete the balance of acceptable continuing education hours required.

#### 4.4 Inactive Status

4.4.1 A request must be submitted to have a license placed on inactive status. Inactive status is effective immediately upon Board approval. The inactive status may continue for five years from the date of Board approval. An inactive license shall terminate at the end of the five-year period unless the license is returned to active status before the end of the five-year period.

4.4.2 Extension. The Board shall extend the inactive status for an additional two-year licensure period upon timely written request. Inactive licenses expire at the end of the licensure period, so written requests for extension must be received well in advance of the end of the licensure period to avoid expiration.

4.4.3 Return to Active Status. Before the end of the then current two-year licensure period, a license shall be returned to active status upon fulfillment of the following requirements by the licensee:

4.4.3.1 Written Request. Submit a written request to have the license returned to active status.

4.4.3.2 Certification. Provide proof of certification in good standing by DCB Inc., NAADAC, or another certifying organization acceptable to the Board pursuant to regulation 4.1.3.

4.4.3.3 Continuing Education. Provide proof of completion of 40 hours of acceptable CE, obtained within the two (2) year period immediately preceding the request for return to active status.

4.4.3.4 Fee. Pay the licensure renewal fee. No late fee shall be assessed for return to active status.

4.5 Ethics. The Board hereby adopts the current version of the National Association for Addictions Professionals (NAADAC) Code of Ethics (Code). The practice of all persons possessing an LCDP shall conform to the principles of the Code. Violation of the Code shall constitute grounds for discipline.

**11 DE Reg. 1066 (02/01/08)**

**17 DE Reg. 755 (01/01/14)**

**18 DE Reg. 900 (05/01/15)**

**18 DE Reg. 902 (05/01/15)**

## 5.0 License for Marriage and Family Therapists (LMFT)

### 5.1 Licensure by Examination Requirements

5.1.1 LAMFT Required. Successful LMFT applicants must hold an active License for Associate Marriage and Family Therapists (LAMFT).

Limited Exception. Individuals who have completed the experience requirements of regulation 5.1.2 and hold an acceptable degree under regulation 6.2, may apply for an LMFT without first obtaining an LAMFT. LMFT applicants under this exception must submit documentation of their experience pursuant to the requirements of regulation 5.1.2 and their educational background pursuant to regulation 6.2. If the submitted documentation is acceptable to the Board, the applicant will receive permission to take the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) exam. If approved to take the exam, an applicant under this exception will receive an LMFT once the Board receives proof that the applicant has passed the exam. A score equal to or greater than the pass point set by the AMFTRB is required to pass the exam.

5.1.2 Experience. Applicants must provide documentation of completion of 3,200 hours of marriage and family therapy services, as defined in 24 Del.C. §3051(d), over a period of no less than two (2) but no more than four (4) consecutive years.

5.1.2.1 Of the required 3,200 hours total experience, 1,600 hours must have been completed under the supervision of an individual who meets the requirements of regulation 6.3.1. The 1,600 hours of supervised experience must be fulfilled as follows:

5.1.2.1.1 500 hours of couple and family therapy,

5.1.2.1.2 500 hours of individual therapy,

5.1.2.1.3 500 hours of couple and family or individual therapy or some combination of the two, and

5.1.2.1.4 100 hours of face-to-face clinical supervision with the applicant's supervisor. Face to face supervision includes both in person and live video conferencing so long as supervision by live video conferencing does not exceed fifty percent (50%) of the total 100 hours of supervision.

- 5.1.2.2 Hours completed under the supervision of an individual who does not meet the requirements of 6.3.1 will not count toward fulfillment of the required 1,600 hours of supervised experience but may count toward fulfillment of the 1,600 hours of experience not required to be supervised.

## 5.2 Licensure by Reciprocity Requirements

- 5.2.1 Licensure Status. Verification of an applicant's possession of a current marriage and family therapy license in good standing from another state, the District of Columbia, or U.S. territory must be submitted directly to the Board by that state, the District of Columbia, or U.S. territory.
- 5.2.2 Prior Licensing Jurisdictions. The applicant must submit a notarized statement listing all licensing jurisdictions in which he previously practiced and a signed "Release of Information" granting the Board permission to contact those jurisdictions for verification of disciplinary history and current status.
- 5.2.3 Substantial Similarity of Licensing Standards. Applicants must submit the statute, rules, and regulations governing marriage and family therapy licensure for the state in which they are currently licensed and through which they are seeking reciprocity. The burden of proof is on the applicant to demonstrate that the licensing standards of that state are substantially similar to Delaware's standards. The Board will make a determination of substantial similarity based on the information presented.
- 5.2.4 No Substantial Similarity of Licensing Standards. Applicants from states whose licensing standards are not substantially similar to Delaware's standards may receive reciprocal licensure if they have held their license in good standing for at least five (5) years and have passed the AMFTRB exam.

## 5.3 License Renewal

- 5.3.1 Renewal Date. The LMFT shall be renewable biennially on or before September 30<sup>th</sup> of even-numbered years. License renewal is accomplished online at the Division of Professional Regulation's website.
- 5.3.2 Continuing Education (CE) Requirements
  - 5.3.2.1 Purpose. The CE requirement is intended to maintain licensees' professional competence in the practice of mental health counseling, marriage and family therapy and chemical dependency counseling.
  - 5.3.2.2 Licensees must complete at least 40 acceptable CE hours during the previous licensure period in order to renew their license. CE requirements for initial licensure periods of less than two (2) years shall be prorated, as follows:
    - 5.3.2.2.1 If the license was granted between April 1 and September 30 of an even-numbered year, the licensee must complete 0 hours of CE during his or her initial licensing period.
    - 5.3.2.2.2 If the license was granted between October 1 of an odd-numbered year and March 31 of an even-numbered year, the licensee must complete 10 hours of CE during his or her initial licensing period.
    - 5.3.2.2.3 If the license was granted between April 1 and September 30 of an odd-numbered year, the licensee must complete 20 hours of CE during his or her initial licensing period.
    - 5.3.2.2.4 If the license was granted between October 1 of an even-numbered year and March 31 of an odd-numbered year, the licensee must complete 30 hours of CE during his or her initial licensing period.
  - 5.3.2.3 Acceptable CE includes:
    - 5.3.2.3.1 CE courses approved by a national mental health or substance abuse treatment organization or their local affiliates, such as the American Association for Marriage and Family Therapy (AAMFT), the International Family Therapy Association (IFTA), the National Board for Certified Counselors, Inc. (NBCC), NAADAC, The Delaware Certification Board, Inc., the National Association for Social Work (NASW), or the American Psychological Association (APA) are acceptable, regardless of course content, and do not need to be approved by the Board.
    - 5.3.2.3.2 Any activity that would achieve the purpose of the CE requirement, explained in subsection 5.3.2.1 above, is acceptable and does not require Board review and approval. Examples include, but are not limited to, interactive courses, workshops, seminars and webinars.
      - 5.3.2.3.2.1 Courses that do not clearly achieve the purpose of CE require Board approval. Licensees should request Board approval in advance of attendance. Requests for approval may be submitted afterward, but there is no guarantee of approval. These hours must be documented by a course agenda, syllabus, or other brief documentation that would allow the Board to assess the appropriateness of the course content. Only licensees may request course approvals. Sponsoring organizations may not request course approvals.
    - 5.3.2.3.3 Teaching academic or CE courses, presentation of original papers, or the writing of a peer-reviewed article may account for up to 20 CE hours. An official transcript, agenda, or syllabus

must be provided to document course hours and content. A copy of the published paper presented must be provided to document hours and content. Only the hours worked in preparation and delivery of the items contained in 5.3.2.3.2 will be counted.

- 5.3.2.3.4 Any education or training that is not interactive/does not occur in real time with an instructor and students, trainees, or participants may only account for a maximum of 50% of the CE requirement. Examples include, but are not limited to, reading of professional education materials, correspondence courses and static online courses.
- 5.3.3 Hardship. The Board shall have the authority to make exceptions to the CE requirements, in its discretion, upon a showing of good cause. "Good Cause" may include, but is not limited to: disability, illness, military service, extended absence from the jurisdiction, or exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. A license shall be renewed upon approval of the hardship extension by the Board.
- 5.3.4 Verification. Verification of CE hours shall be by attestation. Attestation shall be completed electronically if the renewal is accomplished online. Alternatively, the attestation of completion may be submitted by paper renewal documents. Requests for paper renewal forms must be directed to the Division of Professional Regulation.
- 5.3.5 Post-Renewal Audit. The Board will conduct random audits of renewal applications to ensure the veracity of attestations and compliance with the CE requirements. Licensees selected for the random audit shall submit CE course attendance verification in the form of a certificate signed by the course presenter or by a designated official of the sponsoring organization. Licensees shall retain their CE course attendance documentation for each licensure period. Licensees shall retain their CE course attendance documentation for at least one (1) year after renewal. Licensees found to be deficient or found to have falsely attested may be subject to disciplinary proceedings and may have their license suspended or revoked. Licensees renewing during the late renewal period shall be audited.
- 5.3.6 Make-Up of Disallowed Hours - In the event that the Board disallows certain continuing education clock hours, the licensee shall have three months after the date of the Board's notice that the hours have been disallowed to complete the balance of acceptable continuing education hours required.
- 5.4 Inactive Status. Licensees may be placed in inactive status upon written request to the Board.
  - 5.4.1 A written request must be submitted to have a license placed on inactive status. Inactive status is effective immediately upon Board approval. The inactive status may continue through the then current licensure period and the following two-year licensure period. An inactive license shall expire at the end of the two-year licensure period unless either (1) the Board grants an extension before the end of the licensure period or (2) the license is returned to active status before the end of the licensure period.
  - 5.4.2 Extension. The Board shall extend the inactive status for an additional two-year licensure period upon timely written request. Inactive licenses expire at the end of the licensure period, so written requests for extension must be received well in advance of the end of the licensure period to avoid expiration.
  - 5.4.3 Return to Active Status. Before the end of the then current two-year licensure period, a license shall be returned to active status upon fulfillment of the following requirements by the licensee:
    - 5.4.3.1 Written Request. Submit a written request to have the license returned to active status.
    - 5.4.3.2 Continuing Education. Provide proof of completion of 40 hours of acceptable CE, obtained within the two (2) year period immediately preceding the request for return to active status.
    - 5.4.3.3 Fee. Pay the licensure renewal fee. No late fee shall be assessed for return to active status.
- 5.5 Ethics - The Board hereby adopts the current version of the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics ("Code"). The practice of all persons possessing an LMFT or LAMFT shall conform to the principles of the Code. Violation of the Code shall constitute grounds for discipline.

**11 DE Reg. 225 (08/01/07)**

**11 DE Reg. 1066 (02/01/08)**

**15 DE Reg. 1510 (04/01/12)**

**17 DE Reg. 755 (01/01/14)**

**18 DE Reg. 900 (05/01/15)**

**18 DE Reg. 902 (05/01/15)**

## **6.0 Licensure for Associate Marriage and Family Therapists (LAMFT)**

- 6.1 Examination. Successful LAMFT applicants must pass the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) exam. No LAMFT applicant may take the exam without prior approval of the Board. Board approval is based on fulfillment of the requirements in regulation 6.2 (proof of acceptable

education) and regulation 6.3 (submission of a plan to acquire the requisite experience). LAMFT applicants must fulfill those requirements to receive permission to take the exam. If approved to take the exam, an applicant will receive an LAMFT once the Board receives proof that the applicant has passed the exam. A score equal to or greater than the pass point set by the AMFTRB is required to pass the exam.

6.2 Education. An applicant's education must be documented by an official transcript submitted directly to the Board by the degree-granting institution.

6.2.1 All successful applicants must possess either:

6.2.1.1 A graduate degree in marriage and family therapy (MFT) from a graduate program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE),

6.2.1.2 A graduate degree in marriage and family therapy from a non-COAMFTE accredited graduate program acceptable to the Board, or

6.2.1.3 A graduate degree from a nationally accredited college or university in an allied field which is acceptable to the Board. Acceptable allied fields are limited to: counseling, social work, psychology, and psychiatry.

6.2.2 To be acceptable to the Board, a graduate degree under regulations 6.2.1.2 or 6.2.1.3 above must be based on at least 45 credit hours which must include the following:

6.2.2.1 Applicants who do not graduate from a COAMFTE Accredited MFT program should have coursework that matches the following coursework, content, and credit hours.

6.2.2.1.1 Foundations of Relational/Systemic Practice, Theories & Models (Minimum of 6 semester credits/8 quarter credits/90 clock hours) These courses facilitate students developing competencies in the foundations and critical epistemological issues of MFTs. It includes the historical development of the relational/systemic perspective and contemporary conceptual foundations of MFTs, and early and contemporary models of MFT, including evidence-based practice and the biopsychosocial perspective.

6.2.2.1.2 Systemic/Relational Assessment & Mental Health Diagnosis and Treatment (Minimum of 3 Credits/4 quarter credits/45 clock hours) This course facilitates students developing competencies in traditional psycho-diagnostic categories, psychopharmacology, the assessment, diagnosis, and treatment of major mental health issues as well as a wide variety of common presenting problems including addiction, suicide, trauma, abuse, intra-familial violence, and therapy for individuals, couples, and families managing acute chronic medical conditions, utilizing a relational/systemic philosophy.

6.2.2.1.3 Biopsychosocial Health & Development Across the Life Span (Minimum of 3 Credits/4 quarter credits/45 clock hours) This course addresses individual and family development, human sexuality, and biopsychosocial health across the lifespan.

6.2.2.1.4 Diverse, Multicultural and/or Underserved Communities (Minimum of 3 Credits/4 quarter credits/45 clock hours) This course facilitates students developing competencies in understanding and applying knowledge of diversity, power, privilege and oppression as these relate to race, age, gender, ethnicity, sexual orientation, gender identity, socioeconomic status, disability, health status, religious, spiritual and/or beliefs, nation of origin or other relevant social categories throughout the curriculum. It includes practice with diverse, international, multicultural, marginalized, and/or underserved communities, including developing competencies in working with sexual and gender minorities and their families as well as anti-racist practices.

6.2.2.1.5 Clinical Treatment with Individuals, Couples and Families (Minimum of 6 Credits/8 quarter credits/90 clock hours) These courses facilitates students developing competencies in treatment approaches specifically designed for use with a wide range of diverse individuals, couples, and families, including sex therapy, same-sex couples, working with young children, adolescents and elderly, interfaith couples, and includes a focus on evidence-based practice. Programs must include content on crisis intervention.

6.2.2.1.6 Professional Identity, Law, Ethics & Social Responsibility (Minimum of 3 Credits/4 quarter credits/45 clock hours) This course addresses the development of a MFT Identity and socialization, and facilitates students developing competencies in ethics in MFT practice, including understanding and applying the AAMFT Code of Ethics and understanding legal responsibilities.

6.2.2.1.7 Research & Evaluation (Minimum of 3 Credits/4 quarter credits/45 clock hours) This course facilitates students developing competencies in MFT research and evaluation methods, and in evidence-based practice, including becoming an informed consumer of couple, marriage, and

family therapy research. If the program's mission, goals, and outcomes include preparing students for doctoral degree programs, the program must include an increased emphasis on research.

6.2.2.1.8 Contemporary Issues (Must be covered in curriculum, but there is no minimum credit requirement). These courses facilitate students developing competencies in practice within defined contexts (e.g., healthcare settings, schools, military settings, private practice) and/or nontraditional MFT professional practice using therapeutic competencies congruent with the program's mission, goals, and outcomes (e.g., community advocacy, psycho-educational groups). It also addresses developing competency in multidisciplinary collaboration.

6.2.2.1.9 Community Intersections & Collaboration (Must be covered in curriculum, but there is no minimum credit requirement). These courses area facilitate students developing competencies in emerging and evolving contemporary challenges, problems, and/or recent developments at the interface of Couple or Marriage and Family Therapy knowledge and practice, and the broader local, regional, and global context. This includes such issues as immigration, technology, same-sex marriage, violence in schools, etc.

6.2.2.1.10 Clinical Supervised Experience in marriage and family therapy (minimum of 9 credit hours/12 quarter hours/105 clock hours)

6.2.2.2 Nine (9) credit hours earned by serving an internship. The internship must have included at least 300 hours of direct client counseling, 150 hours of which must have been spent on couples and family therapy.

6.2.2.3 Six (6) credit hours in electives.

6.3 Experience. LAMFT applicants must provide a written plan for acquiring the LMFT experience requirements contained in regulation 5.1.2 above. The plan must be signed by the applicant's proposed supervisor. Supervisors must be acceptable to the Board.

6.3.1 To be acceptable to the Board, a supervisor must be either:

6.3.1.1 a Delaware-licensed marriage and family therapist,

6.3.1.2 an individual holding the "approved supervisor" designation from the American Association for Marriage and Family Therapy (AAMFT),

6.3.1.3 a candidate for the AAMFT "approved supervisor" designation who is acceptable to the Board,

6.3.1.4 a licensed marriage and family therapist from another state who has held a license in good standing for a minimum of five (5) years in that state and has passed the AMFTRB exam, or

6.3.1.5 only if one of the above is not available, an individual with the following license from any state: clinical social worker, psychologist, professional counselor of mental health, or physician specializing in psychiatry with training in marriage and family therapy supervision.

6.3.2 Licensees must notify the Board in writing, on the Board-approved form, within 30 days if their supervisor changes. Any supervisor must meet the requirements in 6.3.1. All changes are subject to Board approval. Contact the Board office or website for the proper form.

**11 DE Reg. 225 (08/01/07)**

**11 DE Reg. 1066 (02/01/08)**

**15 DE Reg. 1510 (04/01/12)**

**18 DE Reg. 902 (05/01/15)**

## **7.0 Application; Fee, Affidavit, and Time Limit**

7.1 Fees. Applicants for initial licensure shall submit a completed "Application for Licensure," accompanied by a non-refundable application fee. Applicants for licensure renewal must pay a non-refundable renewal fee. Applicants for late licensure renewal (within one year after expiration) must pay a non-refundable late-renewal fee. All fees are set by the Division of Professional Regulation.

7.2 Affidavit. Applicants shall submit a signed, notarized "Affidavit" affirming that the applicant:

7.2.1 has not violated any rule or regulation set forth by the Delaware Board of Mental Health and Chemical Dependency Professionals;

7.2.2 has not been the recipient of any administrative penalties from any jurisdiction in connection with licensure, registration or certification as a professional mental health provider,

7.2.3 does not have any impairment related to drugs, alcohol, or a finding of mental incompetence by a physician that would limit the applicant's ability to safely act as an LPCMH, LACMH, LCDP, LMFT, or LAMFT, respectively;

- 7.2.4 that he/she has not been convicted of and has no pending criminal charge or charges relating to any crime that is substantially related to the provision of professional mental health counseling, chemical dependency counseling or marriage and family therapy; and
- 7.2.5 has not been penalized for any willful violation of any code of ethics or professional mental health counseling standard.
- 7.3 Time Limit for Completion of Application. Any application not completed within one (1) year shall be considered null and void.

**4 DE Reg. 970 (12/01/00)**  
**9 DE Reg. 1106 (01/01/06)**  
**10 DE Reg. 872 (11/01/06)**  
**11 DE Reg. 225 (08/01/07)**  
**11 DE Reg. 1066 (02/01/08)**

## **8.0 [Reserved]**

**4 DE Reg. 970 (12/1/00)**  
**10 DE Reg. 872 (11/01/06)**  
**11 DE Reg. 225 (08/01/07)**

## **9.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals**

- 9.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.
- 9.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.
- 9.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).
- 9.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.
- 9.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 10.8 of this section.
- 9.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:
  - 9.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
  - 9.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or

designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

- 9.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
- 9.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
- 9.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.
- 9.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.
- 9.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 9.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.
- 9.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.
- 9.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 9.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.
- 9.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

**4 DE Reg. 970 (12/1/00)**

**10 DE Reg. 872 (11/01/06)**

**18 DE Reg. 900 (05/01/15)**

## **10.0 Crimes substantially related to the provision of mental health counseling and chemical dependency counseling:**

- 10.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the provision of mental health counseling and chemical dependency counseling in the State of Delaware without regard to the place of conviction:
  - 10.1.1 Menacing. 11 **Del.C.** §602(a).
  - 10.1.2 Aggravated menacing. 11 **Del.C.** §602(b).
  - 10.1.3 Reckless endangering in the first degree. 11 **Del.C.** §604
  - 10.1.4 Abuse of a pregnant female in the second degree. 11 **Del.C.** §605.
  - 10.1.5 Abuse of a pregnant female in the first degree. 11 **Del.C.** §606.
  - 10.1.6 Assault in the third degree. 11 **Del.C.** §611.
  - 10.1.7 Assault in the second degree. 11 **Del.C.** §612.

- 10.1.8 Assault in the first degree. 11 **Del.C.** §613.
- 10.1.9 Abuse of a sports official; felony. 11 **Del.C.** §614.
- 10.1.10 Assault by abuse or neglect. 11 **Del.C.** §615.
- 10.1.11 Terroristic threatening. 11 **Del.C.** §621(a) and (b).
- 10.1.12 Unlawfully administering drugs. 11 **Del.C.** §625.
- 10.1.13 Unlawfully administering controlled substance or counterfeit substance or narcotic drugs. 11 **Del.C.** §626.
- 10.1.14 Criminally negligent homicide. 11 **Del.C.** §631.
- 10.1.15 Manslaughter. 11 **Del.C.** §632.
- 10.1.16 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 10.1.17 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 10.1.18 Murder in the second degree. 11 **Del.C.** §635.
- 10.1.19 Murder in the first degree. 11 **Del.C.** §636.
- 10.1.20 Promoting suicide. 11 **Del.C.** §645.
- 10.1.21 Abortion. 11 **Del.C.** §651.
- 10.1.22 Self abortion. 11 **Del.C.** §652.
- 10.1.23 Issuing abortifacient articles. 11 **Del.C.** §653.
- 10.1.24 Sexual harassment. 11 **Del.C.** §763.
- 10.1.25 Indecent exposure in the second degree. 11 **Del.C.** §764.
- 10.1.26 Indecent exposure in the first degree. 11 **Del.C.** §765.
- 10.1.27 Incest. 11 **Del.C.** §766.
- 10.1.28 Unlawful sexual contact in the third degree. 11 **Del.C.** §767.
- 10.1.29 Unlawful sexual contact in the second degree. 11 **Del.C.** §768.
- 10.1.30 Unlawful sexual contact in the first degree. 11 **Del.C.** §769.
- 10.1.31 Rape in the fourth degree. 11 **Del.C.** §770.
- 10.1.32 Rape in the third degree. 11 **Del.C.** §771.
- 10.1.33 Rape in the second degree. 11 **Del.C.** §772.
- 10.1.34 Rape in the first degree. 11 **Del.C.** §773.
- 10.1.35 Sexual extortion. 11 **Del.C.** §776.
- 10.1.36 Bestiality. 11 **Del.C.** §777.
- 10.1.37 Continuous sexual abuse of a child. 11 **Del.C.** §778.
- 10.1.38 Dangerous crime against a child. 11 **Del.C.** §779.
- 10.1.39 Female genital mutilation. 11 **Del.C.** §780.
- 10.1.40 Unlawful imprisonment in the second degree. 11 **Del.C.** §781.
- 10.1.41 Unlawful imprisonment in the first degree. 11 **Del.C.** §782.
- 10.1.42 Kidnapping in the second degree. 11 **Del.C.** §783.
- 10.1.43 Kidnapping in the first degree. 11 **Del.C.** §783A.
- 10.1.44 Acts constituting coercion. 11 **Del.C.** §791.
- 10.1.45 Arson in the third degree. 11 **Del.C.** §801.
- 10.1.46 Arson in the second degree. 11 **Del.C.** §802.
- 10.1.47 Arson in the first degree. 11 **Del.C.** §803.
- 10.1.48 Cross or religious symbol burning. 11 **Del.C.** §805.
- 10.1.49 Trespassing with intent to peer or peep into a window of another. 11 **Del.C.** §820.
- 10.1.50 Burglary in the third degree. 11 **Del.C.** §824.
- 10.1.51 Burglary in the second degree. 11 **Del.C.** §825.
- 10.1.52 Burglary in the first degree. 11 **Del.C.** §826.
- 10.1.53 Robbery in the second degree. 11 **Del.C.** §831.
- 10.1.54 Robbery in the first degree. 11 **Del.C.** §832.
- 10.1.55 Carjacking in the second degree. 11 **Del.C.** §835.
- 10.1.56 Carjacking in the first degree. 11 **Del.C.** §836.
- 10.1.57 Theft; felony. 11 **Del.C.** §841.
- 10.1.58 Theft; false pretense. 11 **Del.C.** §843.

10.1.59 Theft; false promise. 11 **Del.C.** §844.

10.1.60 Extortion. 11 **Del.C.** §846.

10.1.61 Misapplication of property. 11 **Del.C.** §848.

10.1.62 Theft of rented property; felony. 11 **Del.C.** §849.

10.1.63 Receiving stolen property. 11 **Del.C.** §851

10.1.64 Identity theft. 11 **Del.C.** §854.

10.1.65 Forgery. 11 **Del.C.** §861.

10.1.66 Possession of forgery devices. 11 **Del.C.** §862.

10.1.67 Falsifying business records. 11 **Del.C.** §871.

10.1.68 Tampering with public records in the second degree. 11 **Del.C.** §873.

10.1.69 Tampering with public records in the first degree. 11 **Del.C.** §876.

10.1.70 Offering a false instrument for filing. 11 **Del.C.** §877.

10.1.71 Issuing a false certificate. 11 **Del.C.** §878.

10.1.72 Bribery. 11 **Del.C.** §881.

10.1.73 Bribe receiving. 11 **Del.C.** §882.

10.1.74 Defrauding secured creditors. 11 **Del.C.** §891.

10.1.75 Fraud in insolvency. 11 **Del.C.** §892.

10.1.76 Interference with levied-upon property. 11 **Del.C.** §893.

10.1.77 Issuing a bad check; felony. 11 **Del.C.** §900.

10.1.78 Unlawful use of credit card; felony. 11 **Del.C.** §903.

10.1.79 Reencoder and scanning devices. 11 **Del.C.** §903A.

10.1.80 Criminal impersonation. 11 **Del.C.** §907.

10.1.81 Criminal impersonation, accident related. 11 **Del.C.** §907A.

10.1.82 Criminal impersonation of a police officer. 11 **Del.C.** §907B.

10.1.83 Unlawfully concealing a will. 11 **Del.C.** §908.

10.1.84 Securing execution of documents by deception. 11 **Del.C.** §909.

10.1.85 Fraudulent conveyance of public lands. 11 **Del.C.** §911.

10.1.86 Fraudulent receipt of public lands. 11 **Del.C.** §912.

10.1.87 Insurance fraud. 11 **Del.C.** §913.

10.1.88 Health care fraud. 11 **Del.C.** §913A.

10.1.89 Home improvement fraud. 11 **Del.C.** §916.

10.1.90 New home construction fraud. 11 **Del.C.** §917.

10.1.91 Misuse of computer system information. 11 **Del.C.** §935.

10.1.92 Bigamy. 11 **Del.C.** §1001.

10.1.93 Bigamous marriage contracted outside of the State. 11 **Del.C.** §1002.

10.1.94 Dealing in children. 11 **Del.C.** §1100.

10.1.95 Abandonment of child. 11 **Del.C.** §1101.

10.1.96 Endangering the welfare of a child. 11 **Del.C.** §1102.

10.1.97 Endangering the welfare of an incompetent person. 11 **Del.C.** §1105.

10.1.98 Unlawfully dealing with a child. 11 **Del.C.** §1106.

10.1.99 Sexual exploitation of a child. 11 **Del.C.** §1108.

10.1.100 Unlawfully dealing in child pornography. 11 **Del.C.** §1109.

10.1.101 Possession of child pornography. 11 **Del.C.** §1111.

10.1.102 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112.

10.1.103 Sexual solicitation of a child. 11 **Del.C.** §1112A.

10.1.104 Criminal non-support and aggravated criminal non-support. 11 **Del.C.** §1113.

10.1.105 Bribery. 11 **Del.C.** §1201

10.1.106 Receiving a bribe; felony. 11 **Del.C.** §1203.

10.1.107 Improper influence. 11 **Del.C.** §1207.

10.1.108 Perjury in the third degree. 11 **Del.C.** §1221.

10.1.109 Perjury in the second degree. 11 **Del.C.** §1353.

- 10.1.110 Perjury in the first degree. 11 **Del.C.** §1223.
- 10.1.111 Making a false written statement. 11 **Del.C.** §1233.
- 10.1.112 Terroristic threatening of public officials or public servants. 11 **Del.C.** §1240.
- 10.1.113 Hindering prosecution. 11 **Del.C.** §1244.
- 10.1.114 Compounding a crime. 11 **Del.C.** §1246.
- 10.1.115 Abetting the violation of driver's license restrictions; felony. 11 **Del.C.** §1249.
- 10.1.116 Escape after conviction. 11 **Del.C.** §1253.
- 10.1.117 Assault in a detention facility. 11 **Del.C.** §1254.
- 10.1.118 Promoting prison contraband; felony. 11 **Del.C.** §1256.
- 10.1.119 Use of an animal to avoid capture felony. 11 **Del.C.** §1257A.
- 10.1.120 Sexual relations in a detention facility. 11 **Del.C.** §1259.
- 10.1.121 Bribing a witness. 11 **Del.C.** §1261.
- 10.1.122 Bribe receiving by a witness. 11 **Del.C.** §1262.
- 10.1.123 Tampering with a witness. 11 **Del.C.** §1263.
- 10.1.124 Interfering with child witness. 11 **Del.C.** §1263A.
- 10.1.125 Bribing a juror. 11 **Del.C.** §1264.
- 10.1.126 Bribe receiving by a juror. 11 **Del.C.** §1265.
- 10.1.127 Tampering with a juror. 11 **Del.C.** §1266.
- 10.1.128 Misconduct by a juror. 11 **Del.C.** §1267.
- 10.1.129 Tampering with physical evidence. 11 **Del.C.** §1269.
- 10.1.130 Criminal contempt of a domestic violence protective order. 11 **Del.C.** §1271A.
- 10.1.131 Riot. 11 **Del.C.** §1302.
- 10.1.132 Hate crimes. 11 **Del.C.** §1304.
- 10.1.133 Aggravated harassment. 11 **Del.C.** §1312.
- 10.1.134 Stalking. 11 **Del.C.** §1312A.
- 10.1.135 Cruelty to animals; felony. 11 **Del.C.** §1325.
- 10.1.136 Unlawful trade in dog or cat by-products. 11 **Del.C.** §1325A.
- 10.1.137 Animals; fighting and baiting prohibited; felony. 11 **Del.C.** §1326.
- 10.1.138 Maintaining a dangerous animal. 11 **Del.C.** §1327.
- 10.1.139 Abusing a corpse. 11 **Del.C.** §1332.
- 10.1.140 Trading in human remains and associated funerary objects. 11 **Del.C.** §1333.
- 10.1.141 Violation of privacy. 11 **Del.C.** §1335.
- 10.1.142 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 **Del.C.** §1338.
- 10.1.143 Adulteration. 11 **Del.C.** §1339.
- 10.1.144 Promoting prostitution in the third degree. 11 **Del.C.** §1351.
- 10.1.145 Promoting prostitution in the second degree. 11 **Del.C.** §1352.
- 10.1.146 Promoting prostitution in the first degree. 11 **Del.C.** §1353.
- 10.1.147 Permitting prostitution. 11 **Del.C.** §1355.
- 10.1.148 Obscenity. 11 **Del.C.** §1361.
- 10.1.149 Obscene literature harmful to minors. 11 **Del.C.** §1365.
- 10.1.150 Outdoor motion picture theatres. 11 **Del.C.** §1366.
- 10.1.151 Possessing a destructive weapon. 11 **Del.C.** §1444.
- 10.1.152 Unlawfully dealing with a dangerous weapon; felony. 11 **Del.C.** §1445.
- 10.1.153 Possession of a deadly weapon during commission of a felony. 11 **Del.C.** §1447.
- 10.1.154 Possession of a firearm during commission of a felony. 11 **Del.C.** §1447A.
- 10.1.155 Possession and purchase of deadly weapons by persons prohibited. 11 **Del.C.** §1448.
- 10.1.156 Receiving a stolen firearm. 11 **Del.C.** §1450.
- 10.1.157 Theft of a firearm. 11 **Del.C.** §1451.
- 10.1.158 Giving a firearm to person prohibited. 11 **Del.C.** §1454.
- 10.1.159 Engaging in a firearms transaction on behalf of another. 11 **Del.C.** §1455.
- 10.1.160 Possession of a weapon in a Safe School and Recreation Zone. 11 **Del.C.** §1457.

- 10.1.161 Removing a firearm from the possession of a law enforcement officer. 11 **Del.C.** §1458.
- 10.1.162 Organized Crime and Racketeering. 11 **Del.C.** §1504.
- 10.1.163 Victim or Witness Intimidation. 11 **Del.C.** §§3532 & 3533.
- 10.1.164 Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 **Del.C.** §1136(a), (b) and (c).
- 10.1.165 Prohibited acts A under the Uniform Controlled Substances Act. 16 **Del.C.** §4751(a), (b) and (c).
- 10.1.166 Unlawful delivery of non controlled substance. 16 **Del.C.** §4752A.
- 10.1.167 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, Lysergic Acid Diethylamide (L.S.D.), designer drugs, or 3,4-methylenedioxymethamphetamine (MDMA). 16 **Del.C.** §4753A (a)(1)-(9).
- 10.1.168 Prohibited acts under the Uniform Controlled Substances Act. 16 **Del.C.** §4756(a)(1)-(5) and (b).
- 10.1.169 Distribution to persons under 21 years of age. 16 **Del.C.** §4761.
- 10.1.170 Purchase of drugs from minors. 16 **Del.C.** §4761A
- 10.1.171 Distribution, delivery, or possession of controlled substance within 1,000 feet of school property; penalties; defenses. 16 **Del.C.** §4767
- 10.1.172 Distribution, delivery or possession of controlled substance in or within 300 feet of park, recreation area, church, synagogue or other place of worship. 16 **Del.C.** §4768
- 10.1.173 Drug paraphernalia-Manufacture and sale; delivery to a minor; felony. 16 **Del.C.** §§4771 and 4774.
- 10.1.174 Operation of a vessel or boat while under the influence of intoxicating liquor and/or drugs; third and fourth offenses. 23 **Del.C.** §2302(a) and §2305 (3) and (4).
- 10.1.175 Obtaining benefit under false representation. 31 **Del.C.** §1003.
- 10.1.176 Reports, statements and documents. 31 **Del.C.** §1004.
- 10.1.177 Kickback schemes and solicitations. 31 **Del.C.** §1005.
- 10.1.178 Conversion of payment. 31 **Del.C.** §1006.
- 10.1.179 Driving a vehicle while under the influence or with a prohibited alcohol content; third and fourth offenses. 21 **Del.C.** §4177 (3) and (4).
- 10.1.180 Duty of driver involved in accident resulting in injury or death to any person; felony. 21 **Del.C.** §4202.
- 10.1.181 Prohibited trade practices against infirm or elderly. 6 **Del.C.** §2581
- 10.1.182 Prohibition of intimidation [under the Fair Housing Act]; 6 **Del.C.** §4619
- 10.1.183 Auto Repair Fraud victimizing the infirm or elderly. 6 **Del.C.** §4909A
- 10.1.184 Unauthorized Acts against a Service Guide or Seeing Eye Dog 7 **Del.C.** §1717
- 10.1.185 Interception of Communications Generally; Divulging Contents of Communications. 11 **Del.C.** §2402.
- 10.1.186 Breaking and Entering, Etc. to Place or Remove Equipment. 11 **Del.C.** §2410.
- 10.1.187 Divulging Contents of Communications. 11 **Del.C.** §2422.
- 10.1.188 Installation and Use Generally of pen trace and trap and trace devices. 11 **Del.C.** §243.
- 10.1.189 Attempt to Intimidate. 11 **Del.C.** §3534.
- 10.1.190 Failure of child-care provider to obtain information required under §8561 or for those providing false information; felony. 11 **Del.C.** §8562.
- 10.1.191 Providing false information when seeking employment in a public school. 6 **Del.C.** §8572.
- 10.1.192 Filing False Claim [under Victims' Compensation Fund]. 11 **Del.C.** §9016.
- 10.1.193 Alteration, Theft or Destruction of Will. 12 **Del.C.** §210.
- 10.1.194 Failure of Physician to file report of abuse of neglect pursuant to 16 **Del.C.** §903.
- 10.1.195 Coercion or intimidation involving health-care decisions and falsification, destruction of a document to create a false impression that measures to prolong life have been authorized; felony. 16 **Del.C.** §2513 (b).
- 10.1.196 [Failure to make] Reports of Persons who are Subject to Loss Consciousness. 24 **Del.C.** §1763.
- 10.1.197 Abuse, neglect, exploitation or mistreatment of infirm adult. 31 **Del.C.** §3913(a), (b) and (c).
- 10.2 Crimes substantially related to provision of mental health counseling and chemical dependency counseling shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

**8 DE Reg. 1456 (04/01/05)**

**15 DE Reg. 1055 (01/01/12)**

**15 DE Reg. 1510 (04/01/12)**

**16 DE Reg. 105 (7/01/12)**

**18 DE Reg. 900 (05/01/15)**

## **11.0 Telehealth Services**

- 11.1 "Telehealth Services" means the practice of Mental Health Counseling, Chemical Dependency Counseling, or Marriage and Family Therapy (hereinafter referred to as Behavioral Health Practice) by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications, and videoconferencing.
- 11.2 In order to deliver Telehealth Services one must hold a current, valid license issued by the Board.
- 11.3 Licensees understand that this rule does not provide licensees with authority to deliver Telehealth Services to clients domiciled in any jurisdiction other than Delaware, and licensees bear responsibility for complying with laws, rules, and/or policies for the delivery of Telehealth Services set forth by other jurisdictional regulatory boards.
- 11.4 Licensees delivering Telehealth Services shall comply with all of the rules of professional conduct and state and federal statutes relevant to Behavioral Health Practice.
- 11.5 Licensees must establish and maintain current competence in the professional practice of Telehealth Services through continuing education, consultation, or other procedures, in conformance with prevailing standards of scientific and professional knowledge. Licensees must establish and maintain competence in the appropriate use of the information technologies utilized in the practice of Telehealth Services.
- 11.6 Licensees must recognize that Telehealth Services are not appropriate for all Behavioral Health Practice and clients, and decisions regarding the appropriate use of Telehealth Services are made on a case-by-case basis. Licensees delivering Telehealth Services are aware of additional risks incurred when engaging in Behavioral Health Practice through the use of distance communication technologies and take special care to conduct their professional practice in a manner that protects the welfare of the client and ensures that the client's welfare is paramount. Licensees delivering Telehealth Services shall:
  - 11.6.1 Conduct a risk-benefit analysis and document findings specific to:
    - 11.6.1.1 Whether the client's presenting problems and apparent condition are consistent with the use of Telehealth Services to the client's benefit; and
    - 11.6.1.2 Whether the client has sufficient knowledge and skills in the use of the technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.
  - 11.6.2 Not provide Telehealth Services to any person or persons when the outcome of the analysis required in subsections 11.6.1.1 and 11.6.1.2 of this rule is inconsistent with the delivery of Telehealth Services, whether related to clinical or technological issues.
  - 11.6.3 Upon initial and subsequent contacts with the client, make reasonable efforts to verify the identity of the client;
  - 11.6.4 Obtain alternative means of contacting the client;
  - 11.6.5 Provide to the client alternative means of contacting the licensee;
  - 11.6.6 Establish a written agreement relative to the client's access to face-to-face emergency services in the client's geographical area, in instances such as, but not necessarily limited to, the client experiencing a suicidal or homicidal crisis;
  - 11.6.7 Whenever feasible, use secure communications with clients, such as encrypted text messages via email or secure websites and obtain and document consent for the use of non-secure communications;
  - 11.6.8 Prior to providing Telehealth Services, obtain the written informed consent of the client, in language that is likely to be understood and consistent with accepted professional and legal requirements, relative to:
    - 11.6.8.1 The limitations and innovative nature of using distance technology in the provision of Behavioral Health Services;
    - 11.6.8.2 Potential risks to confidentiality of information due to the use of distance technology;
    - 11.6.8.3 Potential risks of sudden and unpredictable disruption of Telehealth Services and how an alternative means of re-establishing electronic or other connection will be used under such circumstances;
    - 11.6.8.4 When and how the licensee will respond to routine electronic messages;
    - 11.6.8.5 Under what circumstances the licensee and service recipient will use alternative means of communications under emergency circumstances;
    - 11.6.8.6 Who else may have access to communications between the client and the licensee;
    - 11.6.8.7 Specific methods for ensuring that a client's electronic communications are directed only to the licensee or supervisee;
    - 11.6.8.8 How the licensee stores electronic communications exchanged with the client;

11.6.9 Ensure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons when the licensee disposes of electronic equipment and data.

11.7 If in the context of a face-to-face professional relationship the following are exempt from this rule:

11.7.1 Electronic communication used specific for appointment scheduling, billing, and/or the establishment of benefits and eligibility for services; and

11.7.2 Telephone or other electronic communications made for the purpose of ensuring client welfare in accord with reasonable professional judgment.

**19 DE Reg. 932 (04/01/16) (Final)**