

1 GENERAL GOVERNMENT CABINET

2 Board of Licensed Professional Counselors

3 (Amendment)

4 201 KAR 36:060. Qualifying experience under supervision.

5 RELATES TO: KRS 335.500(4), 335.505(4), 335.525(1)(e)

6 STATUTORY AUTHORITY: KRS 335.515(1), (3)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.505(4) allows a student intern
8 or trainee in professional counseling to use the title of "professional counselor intern" or "student
9 in training" if the activities are performed under the supervision or direction of an approved
10 supervisor and the activities are a part of a supervised program of study. KRS 335.525(1)(e)
11 provides that the board shall issue a "professional clinical counselor" license to an applicant who
12 has completed a minimum of 4,000 hours of experience in the practice of counseling under
13 approved supervision. KRS 335.515(3) requires the board to promulgate administrative
14 regulations to implement KRS 335.500 to 335.599, relating to licensed professional counselors.
15 This administrative regulation establishes the requirements relating to supervision and experience
16 under supervision.

17 Section 1. Requirements for the Practice of Professional Counseling.

18 (1) The practice of professional counseling shall be based on knowledge of areas including
19 interpersonal, cognitive, cognitive behavioral, psychodynamics, human relations, crisis
20 intervention, psychopathology, group dynamics, and effective methods and strategies necessary to

1 help the client achieve mental, vocational, emotional, physical, social, moral, and spiritual
2 development and adjustment throughout the client's life span.

3 (2) In providing counseling services, a licensee shall possess and utilize skills in the following
4 areas:

5 (a) The helping relationship, including counseling theory and practice;

6 (b) Human growth and development;

7 (c) Lifestyle and career development;

8 (d) Group dynamics, process, counseling, and consulting;

9 (e) Assessment, appraisal, and testing of individuals;

10 (f) Social and cultural foundation, including multicultural issues;

11 (g) Principles of etiology, diagnosis, treatment planning, and prevention of mental and
12 emotional disorders and dysfunctional behavior;

13 (h) Research and evaluation; and

14 (i) Professional orientation and ethics.

15 Section 2. Supervision.

16 (1) A supervisor of record shall be licensed by the board as a licensed professional clinical
17 counselor supervisor.

18 (2) The supervisor shall manage, oversee, and direct the supervisee, taking responsibility for
19 the professional clinical counseling practice of the supervisee.

20 (3) The supervisor shall have access to, and shall review, the supervisee's clinical
21 documentation, when needed, and have a signed agreement with the supervisee's agency, if off-
22 site, allowing the supervisor to:

23 (a) Review the supervisee's clinical documentation and records;

1 (b) View the supervisee’s client sessions in face-to-face format, recorded format, or both,
2 if available;

3 (c) Communicate with the supervisee’s administrative supervisor, if applicable, regarding
4 the supervisee’s performance.

5 (4) The supervisor shall use observations from the supervisee’s clinical documentation, client
6 sessions, and communications with the administrative supervisor, if applicable, to inform
7 supervision and shall document these observations in supervisory notes.

8 (5) The supervisor shall verify on the annual renewal application that he or she has reviewed
9 201 KAR 36:060 and 201 KAR 36:065.

10 Section 3. LPCA Supervision Agreement.

11 (1) A supervisee shall enter into a written supervision agreement with an approved supervisor.
12 The supervision agreement shall contain:

13 (a) The name and address of the supervisee;

14 (b) The name, address, license or certification number, and number of years of practice of
15 the supervisor of record;

16 (c) The name, address, license or certification number, and number of years of practice of
17 other supervisors;

18 (d) The agency, institution, or organization where the experience will be received;

19 (e) A detailed description of the nature of the practice including the type of:

20 1. Clients that will be seen;

21 2. Therapies and treatment modalities that will be used including the prospective length
22 of treatment; and

23 3. Problems that will be treated;

1 (f) The nature, duration, and frequency of the supervision, including the:

2 1. Number of hours of supervision per week;

3 2. Number of hours of individual supervision;

4 3. Methodology for transmission of case information; and

5 4. Number of hours of face-to-face supervision that meet the requirements of KRS
6 335.525(1)(e);

7 (g) A statement that supervision:

8 1. Shall occur a minimum of:

9 a. Three (3) times per month and one (1) hour per meeting for a full time practice
10 that consists of twenty-five (25) clock hours or greater per week; or

11 b. One (1) hour for every thirty (30) hours of client contact for a part time practice
12 that consists of less than twenty-five (25) clock hours per week; and

13 2. May include interactive, simultaneous video and audio media that meet applicable
14 legal requirements for information required to be kept confidential;

15 (h) The conditions or procedures for termination of the supervision;

16 (i) A statement that:

17 1. The supervisor of record understands that the supervisor shall be held accountable
18 to the board for the care given to the supervisee's clients; and

19 2. The supervisor of record meets the criteria established in Section 2 of this
20 administrative regulation; and

21 (j) The signatures of both the supervisor and the supervisee.

22 (k) A copy of a signed agreement between the supervisor and the supervisee's agency, if
23 off-site, allowing the supervisor to:

- 1 1. Review the supervisee’s clinical documentation and records;
- 2 2. View the supervisee’s client sessions in face-to-face format, recorded format, or both
- 3 if available; and
- 4 3. Regularly communicate with the supervisee’s administrative supervisor, if
- 5 applicable, regarding the supervisee’s professionalism, using an agreed upon schedule.

6 (2) If a supervisee changes his or her supervisor of record or job placement as identified in the
7 supervision agreement, the supervisee shall submit a new supervision agreement, which sets forth
8 the information required by this section.

9 (3) The licensed professional counselor associate may begin the practice of professional
10 counseling upon the board's approval of the agreement.

11 Section 4. Multiple Supervisors. The board may approve more than one (1) supervisor of
12 record if an applicant or licensee submits a written request. The board may require the applicant
13 and any supervisors to appear before the board to present a plan for the supervision.

14 Section 5. Experience Under Supervision.

15 (1) Experience under supervision shall consist of:

16 (a) Direct responsibility for a specific individual or group of clients; and

17 (b) Broad exposure and opportunity for skill enhancement with a variety of developmental
18 issues, dysfunctions, diagnoses, acuity levels, and population groups.

19 (2) The board may approve an applicant's hours of experience under supervision obtained in
20 another jurisdiction if the jurisdiction's regulatory board issuing professional clinical counselor
21 licenses certifies that:

22 (a) It approved the hours;

23 (b) It approved the supervisor; and

1 (c) The hours were obtained after the applicant received a master's, specialist, or doctoral
2 degree in counseling or a related field.

3 Section 6. Supervision Requirements.

4 (1) Supervision shall relate specifically to the qualifying experience and shall focus on:

5 (a) The appropriate diagnosis of a client problem leading to proficiency in applying
6 professionally recognized clinical nomenclature;

7 (b) The development and modification of the treatment plan;

8 (c) The development of treatment skills suitable to each phase of the therapeutic process;

9 (d) Ethical problems in the practice of professional counseling; and

10 (e) The development and use of the professional self in the therapeutic process.

11 (2) A supervisee shall not continue to practice professional counseling if:

12 (a) The conditions for supervision set forth in the LPCA Supervision Agreement required
13 by Section 3 of this administrative regulation are not followed; or

14 (b) The supervision agreement is terminated for any reason other than the extenuating
15 circumstances that allow temporary supervision in Section 8 of this administrative regulation.

16 (3) If the terms of the supervision agreement are not being met by the supervisee, the supervisor
17 shall immediately notify this board in writing.

18 Section 7. Evaluation by Board. The board shall evaluate the period of supervised experience
19 required by KRS 335.525(1)(e) according to one (1) of the following methods:

20 (1) A candidate who seeks to obtain experience in the Commonwealth of Kentucky shall
21 submit the supervision agreement required by Section 3 of this administrative regulation for the
22 experience prior to beginning to accrue the required experience; or

23 (2) A candidate who obtained the experience in another state shall submit:

1 (a) Documentation of the hours of supervision with the Application for Licensed
2 Professional Clinical Counselor required by 201 KAR 36:070;

3 (b) Information that verifies:

4 1. That the requirements for the license or certificate of the supervisor from the state in
5 which the license or certificate was held are substantially equivalent to the requirements for that
6 license or certificate in Kentucky;

7 2. That the supervisor is in good standing with the certifying or licensing state; and

8 3. That the practice and supervision requirements in the state from which the candidate is
9 applying are substantially equivalent to the requirements established under this administrative
10 regulation.

11 Section 8. Temporary Supervision.

12 (1) In extenuating circumstances, if a licensed professional counselor associate is without
13 supervision, the associate may continue working up to sixty (60) calendar days under the
14 temporary supervision of a qualified mental health provider as defined by KRS 202A.011(12)
15 while an appropriate board-approved supervisor is sought and a new supervision agreement is
16 submitted to the board. Extenuating circumstances include situations such as death or serious
17 illness of the board-approved supervisor, a leave of absence by the supervisor, or the termination
18 of the supervisor's employment.

19 (2)

20 (a) Within ten (10) days of the occurrence causing the extenuating circumstance, the
21 supervisee shall notify the board of the need for temporary supervision.

1 (b) Within thirty (30) calendar days of the change in status of board-approved supervision,
2 the supervisee shall submit, in writing, a plan for resolution of the situation. The written plan shall
3 include:

- 4 1. The name of the temporary supervisor;
- 5 2. Verification of the credential held by the temporary supervisor;
- 6 3. An email address and a postal address for the temporary supervisor and the supervisee;
- 7 and
- 8 4. A telephone number for the temporary supervisor.

9 (c) The temporary supervision arrangement shall expire after sixty (60) days of the
10 establishment of the temporary supervision arrangement with a qualified mental health provider.
11 The temporary supervision arrangement shall not be extended beyond the sixty (60) days.

12 Section 9. Incorporation by Reference.

13 (1) The "LPCA Supervision Agreement", DPL-LPC-02, July 2023,~~[September, 2016]~~, is
14 incorporated by reference.

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

201 KAR 36:060

APPROVED BY AGENCY:

Dr. Hannah Coyt
Chair, Board of Licensed Professional Counselors

Date: _____

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on November 28, 2023 at 1:00 PM EST in Room 127CW, The Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. Members of the public may also utilize the following link to attend the meeting by video conference:

Topic: LPC Regulation Public Hearing
Time: Nov 28, 2023 01:00 PM Eastern Time

Join from PC, Mac, Linux, iOS or Android:
<https://us06web.zoom.us/j/87588899726?pwd=ME5WeXp6dk9xRXJmMnl1K0ZDd3M5dz09>
Password: 186265

Or Telephone:
Dial:
USA 713 353 0212
USA 8888227517 (US Toll Free)
Conference code: 387980

Individuals interested in attending this hearing shall notify this agency in writing no later than five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until 11:59 pm on November 30, 2023.

Written notification of intent to attend the public hearing or written comments on the proposed administrative regulation should be made by using the Public Protection Cabinet website at the follow address: https://ppc.ky.gov/reg_comment.aspx. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

Contact Person: Sara Boswell Janes
Title: Staff Attorney III
Agency: Department of Professional Licensing, Office of Legal Services
Address: 500 Mero Street, 2 NC WK#2
Phone Number: (502) 782-2709 (office)
Fax: (502) 564-4818
Email: Sara.Janes@ky.gov
Link to public comment portal: https://ppc.ky.gov/reg_comment.aspx

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 201 KAR 36:060

Contact Person: Sara Boswell Janes
Phone Number: (502) 782-2709 (office)
Email: sara.janes@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 335.525(1)(e) provides that an applicant for a professional clinical counselor license shall have acquired 4,000 hours of experience in the practice of counseling under approved supervision. KRS 335.515(3) requires the board to promulgate administrative regulations to implement KRS 335.500 to 335.599, relating to licensed professional counselors. This administrative regulation establishes the requirements relating to supervision and the requirements for experience under supervision.

(b) The necessity of this administrative regulation: This regulation is necessary to comply with KRS 335.525(1)(e) and to establish permissible ways to obtain board-approved supervision.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.525(1)(e) provides that an applicant for a professional clinical counselor license shall have acquired 4,000 hours of experience in the practice of counseling under approved supervision.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the process for supervisees to obtain required supervision prior to licensure as professional counselors.

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

(a) How the amendment will change this existing administrative regulation: This amendment clarifies the role and responsibilities of the supervisor, ensures the supervisor's access to supervisee's clinical documentation to ensure proper oversight, and sets forth communication requirements; requires annual verification of the supervisor's review of the regulations relating to their responsibilities as set forth in 201 KAR 36:060 and 201 KAR 36:065; establishes additional requirements related to the supervision agreement; requires the supervisee to assist with the execution of a signed agreement with the job placement agency to allow the supervisor to have access to the supervisee's clinical records and communicate with the administrative supervisor; and clarifies there is a requirement that a new supervision agreement must be filed if the supervisee changes a job placement, which was already required by the terms of the supervision agreement.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clearly establish the roles and responsibilities of the supervisor to ensure the supervisee has appropriate supervision in an effort to protect the health, safety, and welfare of the public.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment clarifies the supervisor's role and responsibilities in meeting the requirements of KRS 335.525(1)(e).

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure supervisors are properly supervising supervisees in compliance with KRS 335.525(1)(e) to ensure public safety.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are presently 1055 licensees with an LPCC-S credential, with 531 actively supervising 1325 active licensed professional clinical counselor associates (LPCAs) who will be impacted by this amendment. This regulation will also affect new applicants for LPCA licensure, as well as small businesses who employ LPCAs since they must sign an agreement allowing the clinical supervisor to have access to client records, sessions, and recordings, and access to communication with the administrative supervisor.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Any LPCC-S will be required to provide an annual verification they have reviewed 201 KAR 36:060 and 201 KAR 36:065 and assume all responsibilities clearly listed they may not have previously assumed. Any LPCA supervisee will have to assist with the execution of a signed agreement with the job placement agency to allow the supervisor to have access to clinical records and communicate with the administrative supervisor, as well as work with the supervisor as required by the role and responsibility. The job placement agency (a small business) will be required to sign the agreement as well. The LPCA is already required to execute a new supervision agreement upon a change in job placement, as has been required in the supervision agreement and the amendment includes this requirement to support this long-time practice.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional direct cost to regulated entities from complying with this amendment. The regulated entities should already be engaging in these practices.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Supervisees will be properly supervised to ensure the health, safety and welfare of the clients they serve and supervisors will be aware of the expectations of the role, as well as the responsibilities of being a supervisor.

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

(a) Initially: No additional cost to the Board is anticipated to implement and enforce this amendment.

(b) On a continuing basis: No additional cost to the Board is anticipated to implement and enforce this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants. No additional funding is required for implementation and enforcement of this administrative regulation.

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

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

(9) TIERING: Is tiering applied? (Explain why or why not): This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE

Regulation No. 201 KAR 36:060

Contact Person: Sara Boswell Janes
Phone Number: (502) 782-2709 (office)
Email: sara.janes@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Board of Licensed Professional Counselors will be affected by this amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.515(1), (3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

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

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

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: N/A

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

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? None.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? None.

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

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

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

Cost Savings (+/-): None

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)].

This administrative regulation will not have a major economic impact.

SUMMARY OF MATERIALS INCORPORATED BY REFERENCE
201 KAR 36:060

The "LPCA Supervision Agreement", September, 2016, is the form required to be completed by the LPCA and the supervisor establishing the agreement between them to meet the requirements of this regulation, and is incorporated by reference.

SUMMARY OF CHANGES TO MATERIALS INCORPORATED BY REFERENCE
201 KAR 36:060

The new form, "LPCA Supervision Agreement", DPL-LPC-02, July 2023, is incorporated by reference to comply with the provisions of the amended regulation, and has also been renumbered and reformatted.