

ETHICS, LAWS, AND RULES AND REGULATIONS FOR PSYCHOLOGISTS IN TENNESSEE

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PRESENTED TO KAPA

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6:30PM

LEARNING OUTCOMES

- Identify recent changes to TCA 63 and other statutes and policies relevant to the work of Psychologists,
- Discuss ethical issues related to TCA-63 and other statutes and policies, and
- Review and discuss the requirements for continuing education

CONFLICT OF INTEREST AND DISCLOSURE

- I have no known conflicts of interest in presenting the information in this continuing education workshop, however....

**CONTINUING EDUCATION
POP QUIZ!!!**

CONTINUING EDUCATION QUIZ ITEM #1

- How many hours of continuing education are required each year?
 - 1. 10 hours each year
 - 2. 20 hours each year
 - 3. 40 hours every 2 years

CONTINUING EDUCATION QUIZ ITEM #1

- How many hours of continuing education are required each year?
 - 1.
 - 2.
 - 3. 40 hours every 2 years

CONTINUING EDUCATION QUIZ ITEM #2

- During what period must the hours be accrued?
- 1. Two calendar years (Jan 1 – Dec 31) prior to the licensure renewal year.
- 2. Two years beginning on the date the license was issued.
- 3. Two years beginning the day after your birthday.

CONTINUING EDUCATION QUIZ ITEM #2

- During what period must the hours be accrued?
- 1. Two calendar years (Jan 1 – Dec 31) prior to the licensure renewal year.
- 2.
- 3.
- My license expires December, 2020. I must accrue all hours by December 31st, 2019.

CONTINUING EDUCATION QUIZ ITEMS #3

- How many hours, **at minimum**, must be received from Type I CE programs during each two-year cycle?
- 1. 18
- 2. 40
- 3. 9
- 4. 22

CONTINUING EDUCATION QUIZ ITEMS #3

- How many hours, at minimum, must be received from Type I CE programs during each two-year cycle?
- 1.
- 2.
- 3. 9
- 4.

CONTINUING EDUCATION QUIZ ITEMS #4

- What is the **maximum** number of hours that can be submitted from Type I CE programs during each two-year cycle?
- 1. 18
- 2. 40
- 3. 9
- 4. 22

CONTINUING EDUCATION QUIZ ITEMS #4

- What is the **maximum** number of hours that can be submitted from Type I CE programs during each two-year cycle?
- 1.
- 2. 40
- 3.
- 4.

CONTINUING EDUCATION QUIZ ITEM #5

- What is the **maximum** number of Type III CE hours that one can submit during each two-year cycle?
- 1. 22
- 2. 18
- 3. 31
- 4. 10

CONTINUING EDUCATION QUIZ ITEM #5

- What is the **maximum** number of Type III CE hours that one can submit during each two-year cycle?
- 1. 22
- 2.
- 3.
- 4.

CONTINUING EDUCATION

- Type I CE – APA approved, documented attendance, formal learning objectives
- Type II CE – State/Regional associations or credentialed body, documented attendance, graduate courses, ABPP exam
- Type III CE – Peer consultation, supervision, research presentations, professional meetings, teaching, publications, reviewing articles
- Pending BOE changes to CE rules

CONTINUING EDUCATION QUIZ ITEMS #6

- How many CE hours must pertain to cultural diversity?
- 1. 1
- 2. 3
- 3. 5
- 4. 6

CONTINUING EDUCATION QUIZ ITEMS #6

- How many CE hours must pertain to cultural diversity?
- 1.
- 2. 3
- 3.
- 4.

CONTINUING EDUCATION REQUIREMENTS

- Cultural diversity requirement (from Rules and Regulations – 1180-01):
 - “Three (3) CE hours shall pertain to cultural diversity as specifically noted in the title, description of objectives, or curriculum of the presentation, symposium, workshop, seminar, course or activity. Cultural diversity includes aspects of identity stemming from age, disability, gender, race/ethnicity, religious/spiritual orientation, sexual orientation, socioeconomic status, and other cultural dimensions. The topic of the presentation, symposium, workshop, seminar course or activity need not be on cultural diversity, but one of the objectives or descriptions of the topics covered shall clearly indicate attention to cultural diversity. These hours shall be Type I or Type II.”

CONTINUING EDUCATION QUIZ ITEMS #7

- How many CE hours must pertain to ethical standards?
- 1. 3
- 2. 6
- 3. 9
- 4. None of the above

CONTINUING EDUCATION QUIZ ITEMS #7

- How many CE hours must pertain to ethical standards?
- 1.
- 2.
- 3.
- 4. None of the above

CONTINUING EDUCATION REQUIREMENTS

- TCA, R&R, and Ethics requirement (from Rules and Regulations – 1180-01-.08:
 - “Three (3) CE hours of Type I or Type II shall pertain to:
 - Tennessee Code Annotated, Title 63, Chapter 11; **AND**
 - Official Compilation, Rules and Regulations of the State of Tennessee, Chapters 1180-01, 1180-02, 1180-03, and 1180-04; **AND**
 - The current version of the “Ethical Standards” which are part of the “Ethical Principles of Psychologists and Code of Conduct” published by the American Psychological Association (A.P.A.)”

CONTINUING EDUCATION QUIZ ITEMS #8

- What is the **maximum** number of CE hours that can be submitted each two-year cycle that were obtained from an internet source?
- 1. No more than 6 hours
- 2. No more than 10 hours
- 3. No more than 20 hours
- 4. All 40 hours can be obtained from an internet source

CONTINUING EDUCATION QUIZ ITEMS #8

- What is the **maximum** number of CE hours that can be submitted each two-year cycle that were obtained from an internet source?
- 1.
- 2.
- 3. No more than 20 hours
- 4. All 40 hours can be obtained from an internet source

CONTINUING EDUCATION QUIZ ITEM #9

- How long must you maintain documentation of required CE hours?
- 1. 1 year
- 2. 2 years
- 3. 3 years
- 4. 5 years

CONTINUING EDUCATION QUIZ ITEM #9

- How long must you maintain documentation of required CE hours?
- 1.
- 2.
- 3.
- 4. 5 years

CONTINUING EDUCATION QUIZ ITEM #10

- Can you lose your license for failing to complete CE requirements?
- 1. No
- 2. Maybe
- 3. Yes, but only after being given ample opportunity to meet the requirements.

CONTINUING EDUCATION QUIZ ITEM #10

- Can you lose your license for failing to complete CE requirements?
- 1.
- 2.
- 3. Yes, but only after being given ample opportunity to meet the requirements.

BOE POLICY UPDATE

- Failure to Obtain Continuing Education Policy – Amended June, 2016
 - Once Board or staff are aware of lapse in CE:
 - Complete required CE's within 3 months of the date on the deficiency letter and submit proof of completion to Board staff
 - Failure to do so will result in an Agreed Citation with a \$100 fine and one year to obtain appropriate hours (can accept or contest). Will be reported on the Department's Disciplinary Action Report and on the practitioner's licensure profile.
 - Failure to do so will result in Office of General Counsel taking further disciplinary action which may involve a Board hearing with fines and possible revocation of license.

MOST COMMON CE ISSUES FROM THE BOARD

- **Submitting less than 40 hours,**
- **Submitting more than 20 online CE's (live webinars are considered online),**
- **Not submitting TCA and Rules and Regulations as well as Ethics,**
 - *If the TN Code and Rules were included in something and it doesn't state it anywhere on the document, they must submit something with that document to show the TN Code and Rules were addressed.*
- **Not submitting 3 hours of cultural diversity,**
- **Submitting a course you taught beyond the first year, and**
- **Not sending in enough supporting documentation when CE's are being claimed for any Type CE, but especially for Type III CE's.**
 - They cannot just list it on a summary sheet. Acceptable documentation will consist of...(e.g., copy of the licensee's registration receipt from a meeting).
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TCA AND R&R UPDATES

- Is an unlicensed person allowed to provide psychotherapy to treat a mental health disorder?
 - If not, what are the consequences?

TCA AND R&R UPDATES

- **Senate Bill 540 – Unlicensed psychotherapy**
 - Effective July 1, 2019
 - "A license is required under title 63 for a person to competently treat a mental health disorder. An unlicensed person is not competent to provide services that fall within any scope of practice for which a license is required under title 63 for treatment of a mental health disorder, and such treatment is illegal."
- **Consequences:**
 - "An unlicensed person may be civilly liable to the client if the unlicensed person knowingly offered psychotherapy services to treat a mental health disorder without being licensed as a mental health provider."
 - Client may seek to recover damages, including payments made to unlicensed person, costs in recovering payments and reasonable attorney's fees.
- **Exemptions?**

TCA AND R&R UPDATES

- Senate Bill 540 – Unlicensed psychotherapy
 - Exemptions
 - Clergy who are not being compensated on a fee-for-service basis,
 - Students and practitioners in training (if under licensed supervision),
 - Person under licensed supervision in a correctional facility or community mental health center,
 - Any service provider at a homeless shelter, licensed behavioral health residential facility, hospital, or any state-operated agency or facility,
 - State-contracted mobile crisis responders, or
 - Any person providing peer counseling or social services not on a fee-for-service basis.

TCA AND R&R UPDATES

- Is it acceptable to barter with clients for your services?

TCA AND R&R UPDATES

- Senate Bill 1206 – Bartering for services
 - Effective April 30, 2019
 - ”...a healthcare profesional may accept goods or services as payment in a direct exchange of barter for healthcare services provided by the healthcare profesional...”
 - IF, “...the patient to whom the healthcare services are provided is not covered by health insurance coverage...”
 - AND the provider “...shall annually submit a copy of the relevant federal tax form disclosing the healthcare profesional’s income from barter to the healthcare profesional’s licensing board.”
 - Excludes healthcare services provided at a pain management clinic!

ETHICAL STANDARDS

- APA Ethics Code 6.05 – Barter with Clients/Patients
 - “Barter is the acceptance of goods, services, or other nonmonetary remuneration from clients/patients in return for psychological services. Psychologists may barter only if
 - (1) it is not clinically contraindicated, and
 - (2) the resulting arrangement is not exploitative.”

TCA UPDATE – TELEHEALTH INSURANCE REIMBURSEMENTS

- Public Chapter No. 4 / House Bill No. 2 – Adopted August 20, 2020
- Implements temporary payment parity for telehealth through April 1, 2022
- Amendments to TCA 56-7-1002 and 63-1-155
 - Must have a provider-patient relationship established and have had in-person session with patient within past 16 months.
 - Provider must be at a “qualified site” such as their office, clinic, or hospital unless insurance provider approves other locations.
 - Must have access to patient charts at the location.
 - Patient is located at a site that they deem appropriate to receive care and is equipped to participate in telecommunication (can be in their home).
 - Must use HIPAA-compliant real time, interactive audiovisual telecommunication - does not include:
 - An audio-only conversation
 - An electronic mail message
 - A facsimile transmission

COVID-19 EXECUTIVE ORDERS

- Continuing Education Requirements
- Executive Order 36 – May 12 through June 30
 - Sub-item 7.4 - Continuing education requirements are suspended so health care professionals can keep working. The provisions of Tennessee Code Annotated, Titles 63 and 68, and related rules and policies are hereby suspended to the extent necessary to **suspend the requirement that individuals complete or submit proof of completing continuing education requirements** or otherwise demonstrate continuing competence as a condition of reinstating a license, certification, or registration. The Commissioner of Health shall reasonably extend the deadline for these requirements as necessary to respond to the effects of COVID-19.

COVID-19 EXECUTIVE ORDERS

- Continuing Education Requirements
- Executive Order 50 – June 30 through August 29 (EO 67 extended through Dec. 29)
 - **In-person and live continuing education requirements are suspended for health care professionals.** The provisions of the rules and policies adopted pursuant to Tennessee Code Annotated, Titles 63 and 68, regarding continuing education credits and hours for health care professionals are hereby suspended to the extent necessary to **suspend the requirement that any continuing education credits and hours be obtained in-person or at a live event for credit and hours earned from March 12, 2020, through the expiration of this Order.** Such rules and policies are further suspended to the extent necessary to allow the Commissioner of Health to adopt policies necessary to comply with the suspension of in-person and live continuing education requirements, and the Commissioner of Health is hereby directed to adopt policies to that effect. **Nothing in this provision suspends the requirements that health care professionals obtain a certain number of continuing education credits or hours.**

COVID-19 EXECUTIVE ORDERS

- How does the Executive Order apply to you?
- Current board rule 1180-01-08 2(f):
 - Type I CE may be fulfilled via internet. No more than twenty (20) hours shall be obtained from an internet source.
- Office of the Commissioner – 7-20-20
 - “For the Commissioner’s audit of continuing education credits/hours required to be obtained in any period that encompasses the calendar year of 2020, all continuing education credits/hours that are obtained through non in-person/live methods will be accepted as proof of completing any continuing education requirements that are a condition of renewing and reinstating a license, certification or registration. The Commissioner will not audit the in-person or live event component for hours obtained during this time. The audit process will otherwise remain unchanged.”

TCA AND R&R UPDATES

- Can psychologists practice telepsychology when their client is physically located outside Tennessee?
- Can psychologists provide face-to-face services in another state with their Tennessee license?

PSYCHOLOGY INTERJURISDICTIONAL COMPACT - PSYPACT

- What? - Interstate compact allowing licensed psychologists to practice telepsychology with clients from other states and/or temporary in-person practice in another state. Those with a master's level license are ineligible.
- Why? - Provide opportunity for clients to receive care when out-of-state or to provide temporary services (e.g., assessment) to clients in rural areas or those that don't have resources to travel.
- When? - Becomes operational once 7 states enact the compact. Senate Bill 1142 proposed to adopt PSYPACT once 7 states adopt it. **Passed in Senate in February, 2020. House adjourned in June before it could be considered, so should be reconsidered in 2021.**
- How? - Apply for E.Passport (telepsychology) and/or Interjurisdictional Practice Certificate (IPC) for temporary in-person practice through ASPPB. Annual renewal required.
- Regulations? - The PSYPACT Commission will be responsible for implementing the rules and bylaws of PSYPACT.
 - BOE can revoke a license (which automatically results in loss of E.Passport or IPC)
 - Commission can revoke E.Passport or IPC, but BOE cannot
- Current map of states in PSYPACT or with pending legislation

APPROVAL TO PRACTICE OUTSIDE TENNESSEE

- **Alabama** - <http://psychology.alabama.gov/emergency.aspx> (Emergency Practice Registration Form)– have approved 120 out-of-state psychologists to practice temporarily, including telehealth.
- **Georgia** – Rule 510-9-.03 - Permission for Limited Practice – allows practice up to 30 days/year
 - 1. Submit Interjurisdictional Practice Certificate (IPC) which must be verified before starting, or
 - 2. "...notifies the Board of their intent to practice in Georgia with dates, address, and nature of intended practice and submits a verification from from their jurisdiction of licensure indicating no history of disciplinary action.
- **Kentucky** - <https://apps.legislature.ky.gov/law/kar/201/026/215.pdf> (non-resident status)
 - Submission requirements similar to Georgia, but practice limited to 30 days every 2 years.
- **North Carolina** - 21 NCAC 54 .1703 - TEMPORARY LICENSES –
 - 5-day practice – submit Temporary Practice Notification Form at least 10 days before starting practice.
 - 30-day practice – submit Temporary License Application Form (good standing in TN required)

THANK YOU!

