

## **CHAPTER 43-45 ADDICTION COUNSELORS**

### **43-45-01. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Addiction counseling" means the provision of counseling or assessment of persons regarding their use or abuse of alcohol or a controlled substance.
2. "Board" means the board of addiction counseling examiners.
3. "Clinical training" means training in addiction counseling, approved by the board.
4. "Internship" means work experience in a licensed addiction treatment facility under the supervision of a clinical supervisor registered by the board.
5. "Private practice of addiction counseling" means the independent practice of addiction counseling by a qualified individual who is self-employed on a full-time or part-time basis and is responsible for that independent practice. Consultation services provided to an organization or agency are not the private practice of addiction counseling.

### **43-45-02. Board of addiction counseling examiners - Composition.**

The governor shall appoint a seven-member board of addiction counseling examiners. The members shall include:

1. Five members who are licensed addiction counselors actively engaged in the practice of addiction counseling, one of whom must be actively engaged in the private practice of addiction counseling.
2. Two members who are laypersons.

### **43-45-03. Board member terms.**

The governor shall appoint new board members. Appointments must be for three-year terms, but no person may be appointed to serve for more than two consecutive terms. Terms begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed.

### **43-45-04. Board power, duties, and authority.**

1. The board shall:
  - a. Administer and enforce the provisions of this chapter.
  - b. Evaluate the qualifications of applicants for a license to practice addiction counseling and issue licenses under this chapter.
  - c. Establish ethical standards of practice for persons holding a license to practice addiction counseling in this state.
  - d. Establish continuing education requirements and approve providers of continuing education.
  - e. Approve clinical training programs.
  - f. Register clinical trainees.
  - g. Register interns.
  - h. Register clinical supervisors.
  - i. Register licensees for private practice.
  - j. Approve and administer examinations.
2. The board may:
  - a. Adopt rules under chapter 28-32 to implement this chapter.
  - b. Issue subpoenas, examine witnesses, and administer oaths, and may investigate allegations of practices violating the provisions of this chapter.
  - c. Recommend prosecution for violations of this chapter to the appropriate state's attorney.
  - d. Recommend that the attorney general bring civil actions to seek injunctive and other relief against violations of this chapter.
  - e. Collect fees for examinations, initial licensures, renewal of licenses, late renewals, private practice registrations, renewal of private practice registrations,

approval of continuing education providers, and administrative fees. The fees must be established by rule in amounts necessary to compensate the board for administration and enforcement of this chapter.

- f. Employ persons to assist the board in carrying out its duties under this chapter.

#### **43-45-05. Board meetings.**

1. The board shall meet at least quarterly. A majority of the members constitute a quorum.
2. Each board member shall serve without compensation but shall receive expenses as provided in section 54-06-09.

#### **43-45-05.1. Initial licenses.**

1. The board shall issue an initial license as an addiction counselor to an applicant who has met all of the following requirements:
  - a. Has successfully completed coursework, approved by the board, at an accredited college or university.
  - b. Has successfully completed one or more oral or written examinations approved by the board for this purpose.
  - c. Has successfully completed a clinical training program approved by the board or accumulated experience as established by the board by rule.
  - d. Has satisfied the board that the applicant agrees to adhere to the code of professional conduct adopted by the board.
2. The board may grant reciprocity, on such terms and conditions as it may determine necessary, to an applicant for licensure who is in good standing as a licensed, approved, or certified addiction counselor under the laws of another jurisdiction that imposes at least substantially the same requirements that are imposed under this chapter.
3. An applicant who is denied licensure must be notified in writing of the reasons for denial and of the right to a hearing before the board, under chapter 28-32, if a hearing is requested within thirty days.

#### **43-45-05.2. Representation to the public.**

1. A person may not represent to the public that the person is an addiction counselor or engage in the practice of addiction counseling in this state unless the person is a licensed addiction counselor.
2. The license issued by the board under the provisions of this chapter must be prominently displayed at the principal place of business where the addiction counselor practices.

#### **43-45-05.3. Private practice of addiction counseling.**

A person may not engage in the private practice of addiction counseling unless that person is registered with the board as eligible for private practice under criteria established by board rule.

#### **43-45-06. Addiction counseling practice - Exemptions.**

1. Nothing in this chapter may be construed to prevent any person from doing work within the standards and ethics of that person's profession and calling, provided that the person does not represent to the public, by title or by use of the initials L.A.C., that the person is engaging in addiction counseling.
2. Nothing in this chapter may be construed to prevent addiction counseling trainees or interns in board-approved programs from engaging in addiction counseling related to training.

#### **43-45-07. Renewal of license.**

1. All licenses are effective when granted by the board.

2. All licenses of licensed addiction counselors expire on December thirty-first of every odd-numbered year.
3. A license may be renewed by payment of the renewal fee and completion of the continuing education requirements set by the board, provided the applicant's license is not currently revoked or grounds for denial under section 43-45-07.1 do not exist.
4. At the time of renewal the board shall require each applicant to present satisfactory evidence that the applicant has completed the continuing education requirements specified by the board.
5. If the completed application for renewal is not received by December first of the odd-numbered year, a late fee will be charged.
6. If the completed application for renewal is not received on or before the expiration date, the license expires and the person may not practice addiction counseling. The license may be renewed within thirty days from the date of expiration of the license if the completed application for renewal and the late fee are received within thirty days from the date of expiration of the license.
7. If a completed application for renewal of license is not received within thirty days from the date of expiration of the license, the licensee must reapply for licensure.
8. The board may extend the renewal deadline for an applicant having proof of medical or other hardship rendering the applicant unable to meet the renewal deadline.

#### **43-45-07.1. Grounds for disciplinary proceedings.**

The board may deny an application, refuse to renew, suspend, revoke, or place on probationary status any license issued under this chapter on proof at a hearing that the applicant or holder of the license has engaged in unprofessional conduct. Unprofessional conduct includes:

1. Obtaining an initial license or renewal by means of fraud, misrepresentation, or concealment of material facts.
2. Violating rules set by the board.
3. Violating a provision of this chapter.
4. Violating the professional code of conduct as adopted by the board.
5. Being adjudged guilty of an offense determined by the board to have a direct bearing on an applicant's or holder of the license's ability to serve the public as an addiction counselor or being adjudged guilty of any offense and being insufficiently rehabilitated as determined by the board under section 12.1-33-02.1.

One year from the date of the revocation, the licenseholder may make application for initial licensure.

#### **43-45-07.2. Reporting obligations.**

1. A person who has knowledge of any conduct constituting grounds for discipline under this chapter may report the violation to the board.
2. The hospital, clinic, or other health care institution, facility, or organization shall report to the board any action taken by the hospital, clinic, or other health care facility, institution, or organization to revoke, suspend, restrict, or condition an addiction counselor's privilege to practice or treat patients in the hospital, clinic, or other health care facility or institution, or as part of the organization, any denial of privileges or any other disciplinary action.

#### **43-45-07.3. Complaints - Investigations.**

1. A person may file a written complaint with the board citing the specific allegations of unprofessional conduct by an addiction counselor. The board shall notify the addiction counselor of the complaint and request a written response from the addiction counselor.
2. The board may investigate a complaint on its own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the complainant.

3. An addiction counselor who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation, and providing copies of patient records when reasonably requested by the board and accompanied by the appropriate release.
4. In order to pursue the investigation, the board has the power to subpoena and examine witnesses and records, including patient records, and to copy, photograph, or take samples. It may require the licensed addiction counselor to give statements under oath, to submit to a physical or mental examination, or both, by a physician or physicians and other qualified evaluation professionals selected by the board if it appears to be in the best interest of the public that this evaluation be secured. A written request from the board constitutes authorization to release information. The patient records that are released to the board are not public records.
5. Unless there is a patient release on file allowing the release of information at the public hearing, all data and information, including patient records, acquired by the board in its investigation are confidential and closed to the public. All board meetings wherein patient testimony or records are taken or reviewed are confidential and closed to the public. If no patient testimony or records are taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

**43-45-08. Penalty.**

Any person who violates subsection 1 of section 43-45-05.2 is guilty of a class B misdemeanor.