Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

2010 Sunset Review:

Board of Psychologist Examiners
Board of Social Work Examiners
Board of Marriage and Family Therapist Examiners
Board of Licensed Professional Counselor Examiners
State Grievance Board
Regulation of Addiction Counselors

October 15, 2010

Consumer Protection

Dora
Department of Regulatory Agencies

Executive Director's Office
Barbara J. Kelley
Executive Director

Bill Ritter, Jr.
Governor

October 15, 2010

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of the regulation of mental health professionals. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2011 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

> The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...
>
> The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination….

The report discusses the question of whether there is a need for the regulation provided under Article 43 of Title 12, C.R.S. The report also discusses the effectiveness of the Division of Registrations and staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

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Executive Director

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Consumer Protection

Bill Ritter, Jr.
Governor

Barbara J. Kelley
Executive Director

2010 Sunset Review:
Mental Health Professionals

Summary

What Is Regulated?
The mental health statute (Statute) provides regulatory oversight for psychologists, social workers, marriage and family therapists, professional counselors, unlicensed psychotherapists and addiction counselors.

Why Is It Regulated?
The purpose of the Statute is to provide protection to consumers who engage the services of mental health professionals.

Who Is Regulated?
Psychologists, social workers, marriage and family therapists, professional counselors and certain addiction counselors are licensed.

Addiction counselors who are working toward achieving the required experience and education to be eligible for licensure may obtain a certification (CAC I, CAC II or CAC III).

Unlicensed psychotherapists must register in the State Grievance Board database.

In fiscal year 08-09 there were a total of 17,744 licensed, certified and registered mental health professionals.

How Is It Regulated?
Currently, five boards (Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners, Board of Licensed Professional Counselor Examiners, and State Grievance Board) and the Director of the Division of Registrations (Division) within DORA (for addiction counselors) provide regulatory oversight for their respective mental health professions. The boards are Type 1, policy autonomous boards with authority to, among other things, impose discipline and promulgate rules, when necessary. The Director of the Division has similar authority with respect to addiction counselors.

What Does It Cost?
In fiscal year 08-09, the total expenditures for the oversight of the mental health professions were $1,409,063. There were 5.05 full-time equivalent employees associated with this regulatory oversight.

What Disciplinary Activity Is There?
In fiscal year 08-09, 56 disciplinary actions were taken against mental health professionals.

Where Do I Get the Full Report?
The full sunset review can be found on the internet at: www.dora.state.co.us/opr/oprpublications.htm.

Key Recommendations

Continue the Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners, Board of Licensed Professional Counselor Examiners, State Grievance Board and the regulation of addiction counselors for nine years, until 2020.

As evidenced by the number of complaints received and disciplinary actions imposed on mental health practitioners (psychologists, social workers, marriage and family therapists, professional counselors, unlicensed psychotherapists and addiction counselors) by the boards and the Director of the Division for addiction counselors, consumers have been harmed by mental health professionals. There is also a potential for mental health professionals to harm consumers because during therapy a relationship exists where a vulnerable person (consumer) confides personal issues or feelings to a therapist, which could create an uneven playing field where a therapist may enter into an inappropriate relationship with a client. In order to provide protection to consumers, the regulatory oversight of the mental health professions should be continued.

Repeal the Director of the Division's regulatory oversight related to addiction counselors, and create an addiction counselor board consisting of four public members and three professional members.

The number of addiction counselors has increased from more than 2,000 in fiscal year 01-02 to more than 3,000 in fiscal year 08-09. This growth in the number of addiction counselors has led to an increase in the number of complaints and, subsequently, the number of disciplinary actions imposed on practitioners. Due to the large volume of complaints, the creation of an addiction counselor board is necessary. The addiction counselor board would assume the responsibilities currently allotted to the Director of the Division, including imposing discipline.

Major Contacts Made During This Review

American Association of Marriage and Family Therapy
Colorado Association of Family and Children's Agencies, Inc.
Colorado Association of Psychotherapists
Colorado Behavioral Healthcare Council
Colorado Coalition Against Domestic Violence
Colorado Counseling Association
Colorado Department of Health Care Policy and Financing, Program Integrity
Colorado Department of Human Services, Division of Behavioral Health and Child Welfare Division
Colorado Department of Public Safety, Division of Criminal Justice
Colorado Department of Regulatory Agencies, Division of Registrations
Colorado Judicial Department, State Court Administrator's Office
Colorado Psychological Association
Colorado Society for Clinical Social Work
International Coach Federation
Jefferson County Public Schools
Members of the mental health boards
Mental Health Sunset Coalition
Metropolitan State College of Denver, Center for Addiction Studies
National Alliance on Mental Illness (NAMI Colorado)
National Association of Social Workers
Office of the Attorney General
Peer Assistance Services
Psychotherapy Practice Solutions, PLLC.
State Board of Human Services
Society of Addiction Counselors
Swedish Family Medicine Residency
University of Denver
University of Colorado Hospital, Center for Integrative Medicine

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are Prepared by:
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Background

Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria[1] and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

[1] Criteria may be found at § 24-34-104, C.R.S.

Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: www.dora.state.co.us/pls/real/OPR_Review_Comments.Main.

The regulatory functions of the Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners, Board of Licensed Professional Counselor Examiners, the State Grievance Board (boards) and the licensing and disciplinary functions of the Director of the Division of Registrations (Division) related to addiction counselors, all of which are administered by the Division's Mental Health Section in accordance with Article 43 of Title 12, Colorado Revised Statutes, (C.R.S.), shall terminate on July 1, 2011, unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies (DORA) to conduct an analysis and evaluation of the boards and the Director of the Division pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether Article 43 of Title 12, C.R.S. (Statute), should be continued for the protection of the public and to evaluate the performance of the Division and staff. During this review, the Division must demonstrate that the regulation serves to protect the public health, safety or welfare, and that the regulation is the least restrictive regulation consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly.

Methodology

As part of this review, DORA staff attended board meetings, interviewed Division staff, reviewed Division records and minutes including complaint and disciplinary actions, interviewed officials with state and national professional associations, interviewed mental health professionals, reviewed Colorado statutes and board and Division rules, and reviewed the laws of other states.

Profile of the Professions

The Statute provides regulatory oversight for six mental health professions:

- Psychologists;
- Social workers;
- Marriage and family therapists;
- Professional counselors;
- Unlicensed psychotherapists; and
- Addiction counselors.

In general, mental health professionals help people promote optimal mental health and reduce personal stress responses by dealing constructively with their psychological, emotional and social problems, both individually and in groups.[2] That is, all mental health disciplines have a common concern with human adjustments to emotional, psychological or social problems.[3]

Mental health professionals address a variety of issues while providing therapy to clients, including, but not limited to:

- Depression;
- Attention Deficit Disorder; and
- Anxiety disorders.

Mental health professionals work in a variety of settings, including, but not limited to:

- Mental health clinics;
- Private practices;
- Hospitals;
- Prisons;
- Rehabilitation centers; and
- Residential treatment centers.

[2] Mental Health Professions. Retrieved June 8, 2010, from http://www.flahec.org/hlthcareers/MENTAL.HTM
[3] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.8.

There is a great deal of overlap among the mental health professions, and it is difficult to easily recognize the differences. This is illustrated in a Jurisprudence Manual used to provide an overview of the mental health climate, including regulatory oversight, etc., when it states,

> …the practice of psychology overlaps with the practices of clinical social work, counseling and marriage and family therapy. This overlap is to such a degree that principles and theories used to train practitioners do not distinguish the respective professions and are borrowed or comingled in the mental health literature. Psychology borrows information from social work group theory and community organization practice and social work borrows from counseling theories, blurring any distinctive knowledge boundary between these disciplines.[4]

Additionally, the Journal of Counseling and Development acknowledges the challenges of distinguishing the mental health professions when it states,

> …the differences in training, specialization, professional affiliations, and credentialing have challenged professional counselors' sense of collective identity. Advanced students in counseling programs, counselor educators, and practicing counselors often find themselves in the dilemma…of being unable to explain exactly how professional counselors differ from helping professionals such as psychologists and clinical social workers.[5]

As highlighted above, the distinguishing characteristics between the mental health professions are difficult to discern; however, there are differences. The most recognizable differences concerning the mental health professions are the level of education of the respective mental health practitioners and their respective approaches to the diagnosis and treatment of clients.

Psychologists

To be eligible for licensure, psychologists are required to possess a doctorate degree, either a Ph.D. or a Psy.D., in psychology or an equivalent degree as determined by the Board of Psychologist Examiners.

[4] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.8.
[5] Journal of Counseling and Development. *Professionalism's Challenges to Professional Counselors' Collective Identity.* Retrieved April 26, 2010, from http://www.accessmylibrary.com/article-1G1-98694602/professionalism-challenges-professional-counselors.htmln

The practice of psychology is,

> the observation, description, evaluation, interpretation and/or modification of human behavior by the application of psychological principles, methods or procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health.[6]

Clinical psychologists, who represent the majority of psychologists in Colorado, are the practitioners who treat clients. More specifically, clinical psychologists are concerned with the assessment, diagnosis, treatment and prevention of mental disorders.[7]

There are also a variety of areas of specialization within the clinical psychologist profession, including, but not limited to: neuropsychology and geropsychology.

Neuropsychology studies the relation between the brain and behavior, and practitioners often work in stroke or head injury programs.[8]

Geropsychology deals with issues associated with the elderly; practitioners often work to help older persons cope with stresses that are common late in life, such as the loss of loved ones, relocation and medical conditions.[9]

Social Workers

In Colorado, the educational requirements for social workers vary depending on the title a social worker uses to refer to oneself. Use of the title "social worker" requires a bachelor's degree or higher. However, the acquisition of a license, either as a Licensed Social Worker (LSW) or a Licensed Clinical Social Worker (LCSW), requires a master's degree or higher.

Child, family, and school social workers, also known as child welfare social workers, family services social workers, or child protective services social workers, provide social services and assistance to improve the social and psychological functioning of children and their families. These social workers often work for individual and family services agencies, schools, or state or local governments. This often includes coordinating available services to assist a child or family.

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[6] Association of State and Provincial Psychology Boards. *What is the Practice of Psychology?* Retrieved June 22, 2010, from http://www.asppb.net/i4a/pages/index.cfm?pageid=3369

[7] U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook, 2010-11 Edition: Psychologists.* Retrieved April 12, 2010, from http://data.bls.gov/cgi-bin/print.pl/oco/ocos056.htm

[8] U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook, 2010-11 Edition: Psychologists.* Retrieved April 12, 2010, from http://data.bls.gov/cgi-bin/print.pl/oco/ocos056.htm

[9] U.S. Bureau of Labor Statistics. *Occupational Outlook Handbook, 2010-11 Edition: Psychologists.* Retrieved April 12, 2010, from http://data.bls.gov/cgi-bin/print.pl/oco/ocos056.htm

Medical and public health social workers provide psychosocial support to individuals, families, or vulnerable populations so they can cope with illness. They may work for hospitals, nursing and personal care facilities, individual and family services agencies, or local governments.

Mental health and substance abuse social workers assess and treat individuals with mental illness or substance abuse problems. These professionals may work in outpatient facilities, where clients come in for treatment and then leave; in inpatient programs, where patients reside at the facility; or in private practice, where they are employed directly by the client. These social workers may be known as clinical social workers, occupational social workers, or substance abuse social workers.

Other types of social workers include social work administrators, researchers, planners and policymakers, who develop and implement programs to address issues such as child abuse, homelessness, substance abuse, poverty, and violence. These workers research and analyze policies, programs, and regulations and suggest legislative and other solutions.[10]

Marriage and Family Therapists

A marriage and family therapist must hold at least a master's degree from an approved graduate school of marriage and family therapy that includes a practicum or internship in the principles and practice of marriage and family therapy.

Marriage and family therapists apply family systems theory, principles, and techniques to address and treat mental and emotional disorders. In doing so, they modify people's perceptions and behaviors, enhance communication and understanding among family members, and help to prevent family and individual crisis. They may work with individuals, families, couples and groups. Marriage and family therapy differs from traditional therapy because less emphasis is placed on an identified client or internal psychological conflict. The focus is on viewing and understanding their clients' symptoms and interactions within their existing environment. Marriage and family therapists also may make appropriate referrals to psychiatric resources, perform research, and teach courses in human development and interpersonal relationships.[11]

[10] U.S. Department of Labor - Bureau of Labor and Statistics, *Occupational Outlook Handbook, 2010-11 Edition*: *Social Workers.* Retrieved June 22, 2010 from http://www.bls.gov/oco/ocos060.htm

[11] U.S. Department of Labor - Bureau of Labor and Statistics, *Occupational Outlook Handbook, 2010-11 Edition*: *Counselors.* Retrieved June 22, 2010 from http://www.bls.gov/oco/ocos067.htm

Professional Counselors

In order to obtain a license as a professional counselor, a candidate must complete a master's degree or a doctorate degree in counseling or a related field of study.

Professional counselors are trained to work with individuals, families and groups in treating mental, behavioral and emotional problems and disorders.[12] Their practice includes, but is not limited to:[13]

- Diagnosis and treatment of mental and emotional disorders including addictive disorders;
- Psychoeducational techniques aimed at prevention of such disorders;
- Consultation to individuals, couples, families, groups and organizations; and
- Research into more effective therapeutic treatment modalities.

Professional counselors' education and training is oriented toward the adoption of a truly client-centered, and not primarily illness-centered, approach to therapy.[14] As such, some general characteristics of professional counseling include:[15]

- Concerned with role functioning, with choices to be made, and with actions to be taken;
- Concerned with present events rather than with past events; and
- Concerned with conscious, rational thinking rather than with unconscious functioning.

Unlicensed Psychotherapists

Unlicensed psychotherapists are required to be registered in the State Grievance Board database in order to practice. Unlicensed psychotherapists represent the most diverse group within the mental health professions, including the education level attained as well as the methods of therapy utilized. Since there is no minimum education requirement to be listed in the database, the amount of education of practitioners varies from a high school education to a Ph.D.

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[12] Who are Licensed Professional Counselors? *American Counseling Association.* Retrieved June 7, 2010, from http://www.counseling.org/Files/FD.ashx?guid=076eccaa-21e5-47ce-bed7-afddfabd3201

[13] Who are Licensed Professional Counselors? *American Counseling Association*. Retrieved June 7, 2010, from http://www.counseling.org/Files/FD.ashx?guid=076eccaa-21e5-47ce-bed7-afddfabd3201

[14] Who are Licensed Professional Counselors? *American Counseling Association*. Retrieved June 7, 2010, from http://www.counseling.org/Files/FD.ashx?guid=076eccaa-21e5-47ce-bed7-afddfabd3201

[15] A Guide to Psychology and Its Practice. *Psychology: Clinical and Counseling – and Licensure.* Retrieved April 29, 2010, from http://www.guidetopsychology.com/cln_cns.htm

The types of therapy utilized by unlicensed psychotherapists are as varied as practitioners' education levels, and practitioners are required to divulge their therapeutic orientation or methodology within their mandatory disclosure statement, which is presented to clients prior to therapy. The following are examples of the types of therapy utilized by unlicensed psychotherapists:

- Analytical psychotherapy;
- Client-centered therapy;
- Reality therapy; and
- Hypnotherapy.

Analytical psychotherapy attempts to create, using a symbolic approach, a dialectical relationship between consciousness and the unconscious.[16] The therapist encourages and guides communication between the two systems via an imaginable process using "symbolic language," as in dreams, fantasies, etc.[17]

Client-centered therapy focuses on the central hypothesis that the growth potential of any patient will tend to be released in a relationship in which the therapist communicates realness, caring and a deeply sensitive non-judgmental understanding.[18]

Reality therapy focuses on the present and behavior, the therapist guides individuals towards enabling them to see themselves accurately, to face reality, and to fulfill their own needs without harming themselves or others.[19]

Hypnotherapy refers to techniques that bypass the conscious mind and use altered mental states to facilitate behavioral, emotional or attitudinal change; to treat stress, phobias, and therapeutic side effects; and to promote healing.[20]

Addiction Counselors[21]

Currently, there is no formal education requirement for any level of certified addiction counselor (CAC I, CAC II or CAC III). However, there are minimum hours of clinical supervised work experience required to achieve the various levels of certification. Specifically, a CAC I must have completed 1,000 hours of supervised work experience; a CAC II must have completed 3,000 hours of work experience. Finally, a CAC III must have completed 5,000 hours of work experience.

[16] Colorado Division of Registrations. *Database Application for Unlicensed Psychotherapists.* Retrieved March 23, 2010, from http://www.dora.state.co.us/mental-health/nlc/NLCapplication.pdf
[17] Colorado Division of Registrations. *Database Application for Unlicensed Psychotherapists.* Retrieved March 23, 2010, from http://www.dora.state.co.us/mental-health/nlc/NLCapplication.pdf
[18] Colorado Division of Registrations. *Database Application for Unlicensed Psychotherapists.* Retrieved March 23, 2010, from http://www.dora.state.co.us/mental-health/nlc/NLCapplication.pdf
[19] Colorado Division of Registrations. *Database Application for Unlicensed Psychotherapists.* Retrieved March 23, 2010, from http://www.dora.state.co.us/mental-health/nlc/NLCapplication.pdf
[20] State of Missouri Department of Health and Senior Services. *Glossary of Terms.* Retrieved July 27, 2010, from http://www.dhss.mo.gov/PainManagement/Glossary.html
[21] The State Board of Human Services revised the rules regarding addiction counselors, which are effective September 1, 2010; however, the new rules will not be implemented until March 2011. As such, the revised rules for addiction counselors are not reflected in this sunset review.

The CAC system is intended to function as a progression. That is, once a certain level of certification is achieved, a person may choose to advance to the next (higher) certification. For example, once a person obtains a CAC I, he or she is eligible to begin working toward fulfilling the requirements to be eligible for a CAC II.

In order to become a licensed addiction counselor, a person must possess a minimum of a master's degree in social sciences or equivalent program, as determined by the Director of the Division.

Addiction counselors, as the title implies, treat persons with substance addictions. Substance abuse is a maladaptive pattern of alcohol or other drug use that causes social, physical, legal, vocational or educational distress or impairment.[22]

The Statute defines addiction counseling in section 12-43-802(1), C.R.S., which states,

> addiction counseling consists of the application of general counseling theories and treatment methods adopted specifically for alcohol and drug theory and research for the express purpose of treating alcohol and drug problems.

[22] Healthline. *Substance Abuse Counseling.* Retrieved June 7, 2010, from http://www.healthline.com/galecontent/substance-abuse-counseling

Legal Framework

History of Regulation

In 1961, regulation of the mental health professions began with the creation of the State Board of Psychology Examiners (Psychologist Board). Later, in 1975 the State Board of Social Work Examiners (Social Work Board) was created by the General Assembly.

Upon their creation, both the Psychologist Board and the Social Work Board functioned as policy autonomous boards, with authority to, among other duties, formally discipline licensees and promulgate rules, when necessary.

In 1988, the General Assembly created the Board of Marriage and Family Therapist Examiners and the Board of Licensed Professional Counselor Examiners. Noticeably absent from the boards' duties was the authority to impose discipline on licensees.

Also in 1988, the General Assembly created the multidisciplinary State Grievance Board and its only function was to formally impose discipline on licensees from all of the regulated mental health professions. The resulting changes enacted by the General Assembly stripped both the Psychologist Board and the Social Work Board of their disciplinary authority.

The mental health statute has gone through sunset reviews in 1991, 1997 and 2003, and each review included several recommendations to the General Assembly.

Of particular note is the 1997 sunset review, which provided an analysis of the State Grievance Board model concerning disciplinary actions. The 1997 sunset review determined that the State Grievance Board was effective in protecting the public health, safety and welfare. Consequently, the 1997 sunset review recommended continuing the State Grievance Board model. In fact, the sunset review stated that it found no evidence that a multidisciplinary mental health board was an inappropriate regulatory model.

Subsequently, during the 1998 legislative session, the General Assembly determined that the mental health professions' (psychologists, social workers, marriage and family therapists, professional counselors and unlicensed psychotherapists) boards should have all licensing, disciplinary, rule-making and policy-making authority.

Importantly, unlicensed psychotherapists are regulated under the State Grievance Board. Although the State Grievance Board shares the same name as the multidisciplinary State Grievance Board, which was created by the General Assembly in 1988, the current role of the State Grievance Board has changed. Recall that the multidisciplinary State Grievance Board was responsible for formally imposing discipline on licensees from all of the regulated mental health professions. The current State Grievance Board is solely responsible for providing regulatory oversight of unlicensed psychotherapists.

Colorado Law

The Mental Health Statute (Statute) is created in section 12-43-101, *et seq.,* Colorado Revised Statutes (C.R.S.), and contains eight Parts. The Statute governs the mental health professions, which include:

- Psychologists;
- Social workers;
- Marriage and family therapists;
- Professional counselors;
- Unlicensed psychotherapists; and
- Addiction counselors.

Parts 1 and 2 of the Statute contain provisions that universally apply to all of the mental health professions regulated within the Statute. For instance, Part 2 highlights the various functions and duties of the boards (Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners, the Board of Licensed Professional Counselor Examiners and the State Grievance Board).

The remaining Parts of the Statute (3 though 8) are more specific to each of the mental health professions. For example, Part 8 delineates the regulatory oversight model for addiction counselors, which are not regulated by a board. Rather, the Director of the Division of Registrations (Division) within the Department of Regulatory Agencies (DORA) is authorized to, among other things, impose discipline on certified and licensed addiction counselors.

Parts 1 and 2

Each mental health profession, to varying degrees, practices psychotherapy while treating clients. As such, psychotherapy is defined in Part 2 of the Statute. Psychotherapy is defined as follows: [23]

> "Psychotherapy" means the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention which takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, it can be a single intervention. It is the intent of the General Assembly that the definition of psychotherapy as used in this part 2 be interpreted in its narrowest sense to regulate only those persons who clearly fall within the definition set forth in this subsection.

The Statute also prohibits mental health professionals from practicing, "outside of or beyond his or her area of training, experience, or competence."[24]

The Statute serves as a title protection statute for mental health professionals. Title protection is granted to a variety of mental health professionals licensed, certified or registered, within the Statute. Section 12-43-216, C.R.S., declares that the use of the following terms is protected,

> "licensed clinical social worker," "clinical social worker," "LCSW," "licensed social worker," "LSW," "marriage and family therapist," "LMFT," "professional counselor," "LPC," "psychologist," "psychologist candidate," "psychology," "psychological," "addiction counselor," "licensed addiction counselor," "LAC," "certified addiction counselor," or "CAC."

The Statute also prohibits a person who is not licensed or certified from stating or otherwise implying that he or she is licensed or certified to practice psychology, social work, marriage and family therapy, professional counseling, or addiction counseling.

Five of the mental health professions (psychologists, social workers, marriage and family therapists, professional counselors and unlicensed psychotherapists) operate under Type 1, policy autonomous boards, which are responsible for licensing, rule-making and policy-making.

[23] § 12-43-201(9), C.R.S.
[24] § 12-43-202, C.R.S.

All of the mental health boards are uniform in various areas. For example, each of the boards consist of four public members and three professional members,[25] each of which is appointed by the Governor.

The Statute also requires each board to:

- Meet annually and elect from its membership a chairperson and vice-chairperson;[26]
- Hold meetings that are open to the public, unless it is determined the harm to a complainant or other recipient of services outweighs the public interest; or when a mental health professional is participating in a board-approved addiction program;[27]
- Conduct all proceedings according to the State Administrative Procedure Act;[28]
- Take disciplinary actions under the Statute, including aiding District Attorneys in prosecutions, when appropriate;[29] and
- Notify the public of all disciplinary actions taken against a mental health professional under the Statute.[30]

In addition to these requirements, the Statute authorizes the boards to adopt and revise rules, adopt license examinations, approve, renew, and deny licenses for mental health professionals, appoint advisory committees when needed, and conduct hearings to fulfill powers and duties.[31]

The Statute confers immunity from civil and criminal liability to any person or board member who participates in a board proceeding while acting in good faith.[32] Board members must disclose any personal, private, or financial interest they have concerning a board matter and may not participate when a conflict exists.[33] The Governor may remove a sitting board member for misconduct, incompetence, or neglect of duty.[34]

[25] §§ 12-43-302(2)(a)(b), 12-43-402(2)(a)(b), 12-43-502(2)(a)(I)(II), 12-43-602(2)(a)(I)(II), C.R.S. and 12-43-702(2)(3), C.R.S.
[26] §§ 12-43-203(2)(a)(I) and 12-43-221(1)(a), C.R.S.
[27] § 12-43-203(2)(a)(II), C.R.S.
[28] § 12-43-203(2)(b)), C.R.S.
[29] §§ 12-43-221(1)(c), C.R.S.
[30] § 12-43-221(1)(f), C.R.S.
[31] §§ 12-43-203(3) and 12-43-221(2), C.R.S.
[32] § 12-43-203(7)(a), C.R.S.
[33] §§ 12-43-203(9) and 12-43-224(7), C.R.S.
[34] § 12-43-203(10), C.R.S.

Licensure

As a licensing entity, a board may charge a fee for license applications and examinations.[35] However, the Director of the Division is authorized to establish the fees.[36]

The Statute also directs that the boards and the Director of the Division maintain accurate records concerning mental health professionals, including all cases and decisions with which a mental health professional is involved, all examination results for five years post-examination,[37] and a register of all license applications. The records must include:[38]

- Name, age, and residence of each candidate;
- Date of the application;
- Place of business of such candidate;
- Summary of the educational and other qualifications of each candidate;
- Explanation of whether an examination was required and, if required, the scores of the examination;
- Result of whether licensure was granted; and
- Date of the action of the board or the Director of the Division.

Each board determines if a candidate possesses the qualifications required by the Statute.[39] If a board, or the Director of the Division when applicable, determines a candidate does not possess the necessary qualifications or a mental health practitioner does not demonstrate continued professional competence for license renewal, a license may be denied. When such a denial does occur, the board or the Director of the Division must provide a written statement explaining why. Subsequently, the candidate may request a hearing under the State Administrative Procedure Act on the determination.[40] However, a board, of its own accord, may choose to reconsider any denial and issue a license.[41]

If any board created pursuant to the Statute has previously disciplined a mental health professional applying for licensure, the findings, conclusions, and final order shall be evidence against such person making the subsequent application.[42]

[35] § 12-43-204(2), C.R.S.
[36] §§ 12-43-204(3) and 12-43-204(3.5), C.R.S.
[37] § 12-43-203(4), C.R.S.
[38] § 12-43-205, C.R.S.
[39] § 12-43-212(1), C.R.S.
[40] § 12-43-212(2), C.R.S.
[41] § 12-43-212(4), C.R.S.
[42] § 12-43-224(c), C.R.S.

The Statute specifically notes that each board authorized under the Statute and the Director of the Division, take a liberal disposition when determining educational standards and not erect undue technical barriers to a candidate wishing to examine for a license.[43]

License by Endorsement

A mental health professional can obtain licensure or certification by endorsement if he or she,

> is licensed, registered or certified, and is in good standing under the laws of another jurisdiction if the candidate presents proof to the board(s) or Director of the Division that he or she possesses credentials and qualifications that are substantially equivalent to the requirements for regulation under the mental health profession for which the candidate is applying.[44]

Each specific board promulgates rules concerning how it proceeds in such cases.[45] Since there are no minimum credentials or qualifications for unlicensed psychotherapists, this process is not available to them.

Provisional Licenses

A provisional license may be issued to a person who has completed a post-graduate degree that meets the educational requirements to become a mental health professional.[46] A provisional licensee must work under the supervision of a mental health professional[47] in a facility licensed by the Department of Human Services to provide 24-hour group care and treatment for five or more children operated under private, public, or nonprofit sponsorship.[48] A candidate for a provisional license must provide the license number of his or her supervising mental health professional with the application.[49]

Unlicensed psychotherapists are not eligible for a provisional license because they are not required to complete a post-graduate degree.

A provisional license expires 30 days following the provisional licensee's termination at a qualifying facility or after supervision termination by a mental health professional, unless the provisional licensee finds another supervising mental health professional or becomes employed at another qualifying facility.[50] A provisional licensee is obligated to notify his or her respective board of any change within 30 days of the change.[51]

[43] § 12-43-213, C.R.S.
[44] § 12-43-206, C.R.S.
[45] § 12-43-206, C.R.S.
[46] § 12-43-206.5(1)(a), C.R.S.
[47] § 12-43-206.5(1)(a), C.R.S.
[48] § 26-6-102(8), C.R.S.
[49] § 12-43-206.5(2), C.R.S.
[50] § 12-43-206.5(1)(b), C.R.S.
[51] § 12-43-206.5(1)(c), C.R.S.

Candidate Registry

Section 12-43-304(7), C.R.S., authorizes the Board of Psychologist Examiners to register a psychologist candidate who has completed the required education (doctorate degree). Once registered, the psychologist candidate is under the jurisdiction of the Board of Psychologist Examiners.

Exemptions

There are exemptions to the licensing provisions of the Statute.[52] Among the exemptions are several classes of government employees, persons involved with judicial proceedings, education, employment or rehabilitation counselors, religious ministers unless they use a title protected within the Statute, mental health professionals licensed in another state, and trained coaches. The exemptions are dependent on circumstances.

Disclosures

All mental health professionals must disclose specific information, in writing, to clients during initial client contact:[53]

- Name, business address, business telephone number;
- List of degrees, credentials, licenses and certifications;
- Disclosure that the mental health profession and professional are both regulated by DORA;
- Address and telephone number of the applicable board; and
- A statement indicating:
    - The client is entitled to information regarding methods, techniques, and duration, if known, of therapy;
    - The client may seek a second opinion from another therapist;
    - The client may terminate therapy at any time;
    - Sexual intimacy is never appropriate in the professional relationship; and
    - Information divulged by the client during therapy is confidential, apart from certain legal exceptions that will be identified by the mental health professional.

If the client is unable to read or write, an oral explanation must accompany the written disclosure.[54]

[52] § 12-43-215, C.R.S.
[53] § 12-43-214(1), C.R.S.
[54] § 12-43-214(5), C.R.S.

If the client is a child, the disclosure is made to the child. However, if the client is a child whose parent or legal guardian approves the services, then disclosure is made to the parent or legal guardian.[55] If the client is in an in-patient setting, the disclosures are made by the primary mental health professional.[56]

No later than the second visit, the client, parent, or guardian must sign the disclosure form unless he or she is unable to or refuses.[57] If a client refuses to sign the disclosure statement, the mental health professional can either refuse to treat the client or document the client's refusal to sign the disclosure statement in the client's file.

There are exemptions to the disclosure provisions, including, but not limited to:

- Emergency situations; [58]
- Forensic evaluations; [59]
- The client is in the physical custody of the Departments of Corrections or Human Services; [60]
- The client is incapable of understanding the disclosure and has no guardian to whom a disclosure can be made; [61] and
- The mental health professional is practicing in a hospital licensed by the Department of Public Health and Environment. [62]

Unless given consent by a client, no mental health professional may disclose any confidential information or advice given in the course of professional employment.

There are specific exemptions to this confidentiality section for clients making a complaint against a mental health professional and review of cases by certain regulating and/or governing boards.[63] Notwithstanding, the records and information used by these boards are not part of the public record, nor is the identity of any client involved in the process.[64]

[55] § 12-43-214(2), C.R.S.
[56] § 12-43-214(3), C.R.S.
[57] § 12-43-214(6), C.R.S.
[58] § 12-43-214(4)(a), C.R.S.
[59] § 12-43-214(4)(c), C.R.S.
[60] § 12-43-214(4)(d), C.R.S.
[61] § 12-43-214(4)(e), C.R.S.
[62] § 12-43-214(4)(g), C.R.S.
[63] § 12-43-218(2), C.R.S.
[64] § 12-43-218(3), C.R.S.

Violations

Mental health practitioners are forbidden from diagnosing, prescribing for, treating, or advising a client with reference to medical problems. The Statute requires they collaborate with a Colorado-licensed physician to make provision for such issues.[65] The Statute expressly denies a mental health practitioner the ability to administer or prescribe drugs or practice medicine in any manner.[66] Additional violations of the Statute include:[67]

- Having a conviction of a felony or pleading *nolo contendre* to a felony related to the ability to practice;
- Assisting or conspiring to violate the Statute;
- Obtaining licensure fraudulently;
- Using misleading, deceptive, or false advertising;
- Being habitually intemperate or excessively using any controlled substance or any alcoholic beverage which renders him or her unfit to practice;
- Having a physical or mental disability that renders such person unable to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under such person's care;
- Failing to act within generally accepted professional standards;
- Performing services outside of such person's area of training, experience, or competence and failing to refer a client to an appropriate mental health professional;
- Maintaining relationships with clients that are likely to impair professional judgment or increase the risk of client exploitation, such as treating employees, supervisees, close colleagues, or relatives;
- Failing to terminate a relationship when it is reasonably clear the client was not benefitting from the relationship;
- Exercising undue influence on the client, including the promotion of the sale of services, goods, property, or drugs in such a manner as to exploit the client for financial gain or accepting remuneration for referring clients to other professional persons;
- Engaging in sexual contact with a client during a therapeutic relationship or within two years of the end of such relationship; and
- Making false or repeatedly incorrect essential entries into client records.

[65] § 12-43-209, C.R.S.
[66] § 12-43-208, C.R.S.
[67] § 12-43-222, C.R.S.

Discipline

If a mental health professional violates the Statute, his or her regulatory authority may deny, revoke, or suspend any license, certification, registration, or the listing of any unlicensed psychotherapist in the State Grievance Board database; issue a letter of admonition, place the mental health professional on probation, apply for an injunction to enjoin the mental health professional from practicing the profession for which such person is regulated within the Statute or issue a confidential letter of concern.[68] If a person holds multiple mental health licenses, that mental health professional may be subject to discipline by each of the regulating authorities.[69]

The boards and the Director of the Division are also authorized to enter into stipulations with mental health professionals when a regulated person violates the Statute or applicable rules.[70]

In addition, the boards and the Director of the Division may issue a cease and desist order to any mental health professional whose actions are an imminent threat to the health, safety and welfare of the public.[71] A cease and desist order may also be issued if a person provides mental health services without a requisite license, certification or registration.[72] Within 10 days of the issuance of a cease and desist order, the person may request a hearing to determine whether there was a violation the Statute or applicable rules.[73]

Any person who does not comply with a final cease and desist order or stipulation may be subject to an injunction to prevent continued violation.[74] The subject of a final cease and desist order may also seek judicial review of the board's or Director of the Division's action.[75]

The boards and the Director of the Division may employ and refer cases to administrative law judges.[76] Any final actions and orders taken by the boards and the Director of the Division may be judicially reviewed in the Court of Appeals.[77] However, once the boards or the Director of the Division decides a violation warrants some formal action, the action may not be deferred.[78]

The boards and the Director of the Division may, at their sole discretion, any time after imposing discipline, reconsider their action and reduce the severity of their action.[79]

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[68] § 12-43-223(1), C.R.S.
[69] § 12-43-224(1)(b), C.R.S.
[70] §§ 12-43-223(6) and 12-43-803(2)(d), C.R.S.
[71] §§ 12-43-223(4)(a) and 12-43-803(2)(d), C.R.S.
[72] § 12-43-223(4)(a), C.R.S.
[73] § 12-43-223(4)(b), C.R.S.
[74] § 12-43-223(7), C.R.S.
[75] §§ 12-43-223(8) and 12-43-803(2)(d), C.R.S.
[76] §§ 12-43-224(2)(b) and 12-43-803(2)(d), C.R.S.
[77] §§ 12-43-217 and 12-43-803(2)(d), C.R.S.
[78] §§ 12-43-224(3)(f) and 12-43-803(2)(d), C.R.S.
[79] §§ 12-43-225 and 12-43-803(2)(d), C.R.S.

As a condition of licensure, certification or registration, a mental health professional gives consent to submit to mental or physical examinations when directed, in writing,[80] by his or her regulating board or the Director of the Division. If the board or the Director of the Division has reasonable cause to believe a mental health professional is unable to practice with reasonable skill and safety to patients, it may order an examination.[81] The board and the Director of the Division may use the results of the examination in any proceeding.[82] Failure by the mental health professional to submit to the examination may result in board-initiated or Director of the Division-initiated disciplinary action or injunction.[83]

Practicing as a mental health professional without the appropriate level of licensure is a Class 2 misdemeanor, for a first offense, and is a Class 6 felony for a second or subsequent offense.[84] If a person receives services by a person who does not hold the proper credential, that person is entitled to reimbursement of fees paid and may recover damages for any injury or death, without showing negligence.[85]

Part 3: Psychologists

Part 3 of the Statute contains the statutory provisions concerning licensed psychologists. The practice of psychology includes, but is not limited to:[86]

- Psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests and aptitudes;
- Neuropsychological tests, assessments, diagnoses and treatment of neuropsychological and brain disorders; and
- Clinical and counseling psychology, which are the sciences of diagnosis and treatment of mental, neurological, psychophysiological and emotional disorder or disability, alcoholism and substance abuse, behavioral abuse including dangerousness to self or others and disorders of habit or conduct.

[80] §§ 12-43-224(2)(e) and 12-43-803(2)(d), C.R.S.
[81] §§ 12-43-224(2)(d) and 12-43-803(2)(d), C.R.S.
[82] §§ 12-43-224(2)(f) and 12-43-803(2)(d), C.R.S.
[83] §§ 12-43-224(2)(d) and 12-43-803(2)(d), C.R.S.
[84] § 12-43-226(2), C.R.S.
[85] § 12-43-226(5), C.R.S.
[86] §§ 12-43-303(2)(a)(b) and (c), C.R.S.

In order to be eligible for licensure as a psychologist, a candidate is required to meet the following qualifications:[87]

- Be at least 21 years of age;
- Hold a doctorate degree in psychology or the equivalent to such major as determined by the Board of Psychologist Examiners from an approved school;
- Have at least one year of postdoctoral experience practicing psychology under supervision approved by the Board of Psychologist Examiners; and
- Have demonstrated professional competence by passing a written examination prescribed by the Board or Psychologist Examiners, and a written, mail-in jurisprudence examination.

Part 4: Social Workers

Social work practice takes place in public and private agencies, as well as institutional, educational, or independent settings.[88] Professional practice includes, but is not limited to:[89]

- Assessment;
- Differential diagnosis;
- Measurement of psychosocial functioning;
- Psychotherapy;
- Crisis intervention;
- Outreach;
- Short and long-term treatment;
- Mediation;
- Treatment planning and evaluation;
- Client education;
- Discharge, referral, and continuity of care planning and implementation;
- Consultation;
- Supervision;
- Therapeutic, individual, marital, and family interventions;
- Social group work;
- Community organization and development;
- Social policy analysis and development;
- Research;
- Consultation, supervision, and teaching in higher education; and
- Advocacy.

The Board of Social Work Examiners issues two types of licenses: a licensed social worker (LSW) and a licensed clinical social worker (LCSW).

[87] §§ 12-43-304(1)(a)(c)(d) and (e), C.R.S.
[88] § 12-43-403(3), C.R.S.
[89] §§ 12-43-403(2) and 12-43-406(1), C.R.S.

Acquisition of an LSW requires a candidate to meet the following requirements: [90]

- Be at least 21 years of age;
- Hold a minimum of a master's degree from an approved graduate school of social work; and
- Pass examinations in both social work, and a written, mail-in jurisprudence examination.

LCSW requirements are the same as the LSW plus two years of social work practice under the supervision of an LCSW.[91]

Once licensed, an LCSW may practice all of the aspects in the scope of social work. However, an LSW may practice psychotherapy only when supervised by an LCSW.[92]

The Statute conveys several levels of title protection to the social worker profession:

- Any person with a bachelor's, master's, or Ph.D. degree from an accredited social work program may use the title "social worker";[93]
- Any person with a valid, unsuspended, unrevoked LSW license may use the titles "social worker," "licensed social worker," and "LSW";[94] and
- Any person with a valid, unsuspended, unrevoked LCSW license may use the titles "social worker," "licensed social worker," "clinical social worker," "licensed clinical social worker," and "LCSW."[95]

No person is required to obtain a social work license to practice social work if that person is supervised by an LCSW, unless licensure is otherwise required by the Board of Social Work Examiners.[96] There also exists a qualified social work teaching exemption.[97]

People providing medically-related services in skilled nursing or nursing care facilities, and meeting the federal guidelines governing Medicare and Medicaid, are exempt from provisions within the Statute.[98]

[90] § 12-43-404(1), C.R.S.
[91] § 12-43-404(2), C.R.S., and Board Rule 17(c)(4).
[92] § 12-43-409, C.R.S.
[93] § 12-43-405(5), C.R.S.
[94] § 12-43-405(1), C.R.S,
[95] § 12-43-405(2), C.R.S.
[96] § 12-43-405(4), C.R.S.
[97] § 12-43-407, C.R.S.
[98] § 12-43-405(3)(b), C.R.S.

Public departments of human services employees are provided an exemption as long as they do not refer to themselves as social workers without attaining requisite qualifications.[99] However, if an employee who is licensed by the Board of Social Work Examiners is terminated from one of these agencies, the employee is subject to review for discipline by the Board of Social Work Examiners.[100]

The Statute delineates the continuing competency requirement for social workers. The Board of Social Work Examiners is required to adopt rules establishing a continued competency professional program that determines,

> the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a regulated mental health professional, as applicable, according to generally accepted industry standards and professional ethical standards in a designated role and setting.[101]

Part 5: Marriage and Family Therapists

Marriage and family therapists provide services to individuals, couples, and families, singly or in groups.[102] Professional practice includes, but is not limited to:[103]

- Assessment and testing;
- Diagnosis;
- Treatment planning and evaluation;
- Client education;
- Consultation;
- Supervision;
- Therapeutic, individual, marital, family, group, or organizational interventions; and
- Psychotherapy.

[99] § 12-43-410(1), C.R.S.
[100] § 12-43-410(2), C.R.S.
[101] § 12-43-411(3), C.R.S.
[102] § 12-43-503(1), C.R.S.
[103] § 12-43-503(2), C.R.S.

The Board of Marriage and Family Therapist Examiners requires candidates for licensure to: [104]

- Be at least 21 years of age;
- Hold at least a master's degree from an approved graduate school of marriage and family therapy that includes a practicum or internship in the principles and practice of marriage and family therapy, or a Board of Marriage and Family Therapist Examiners-determined equivalent;
- Have at least two years of post-master's or one year postdoctoral practice in individual and marriage and family therapy, including at least 1,500 hours of face-to-face client contact for the purpose of assessment and intervention; and
- Pass an examination in marriage and family therapy, and a written, mail-in jurisprudence examination.

The Board of Marriage and Family Therapist Examiners is required to develop a continued competency professional program. The program determines,

> the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a marriage and family therapist according to generally accepted industry standards and professional ethical standards in a designated role and setting.[105]

Part 6: Professional Counselors

The practice of clinical mental health counseling (also known as professional counseling) includes, but is not limit to:[106]

- Assessment;
- Counseling activities;
- Consultation;
- Referral;
- Treatment;
- Diagnosis;
- Testing;
- Assessment; and
- Psychotherapy.

[104] § 12-43-504(1), C.R.S.
[105] § 12-43-506(3), C.R.S.
[106] §§ 12-43-601(2)(a) and (b), C.R.S.

The Statute includes the following definitions for professional counseling:

- Those activities that assist the person receiving counseling in developing an understanding of personal, emotional, social, educational, alcohol and substance abuse, domestic violence and vocational development and in planning and effecting actions to increase functioning or gain control of his or her behavior in such areas.[107]
- The selecting, administering, scoring and interpreting of instruments designed to measure aptitudes, attitudes, abilities, achievements, interests, emotions and other personal characteristics and includes non-standardized methods, such as interviews, to evaluate a person receiving counseling and to evaluate such personal and social functioning.[108]

In order to obtain a professional counselor license, a candidate must: [109]

- Be at least 21 years of age;
- Not be in violation of any of the provisions of the Statute and the rules and regulations;
- Hold a master's or doctorate degree in professional counseling from an accredited school or college or an equivalent program as determined by the Board of Licensed Professional Counselor Examiners;
- Have at least two years of post-master's practice or one year of postdoctoral practice in applied psychotherapy under supervision approved by the Board of Licensed Professional Counselor Examiners; and
- Have demonstrated professional competence by passing an examination in professional counseling demonstrating special knowledge and skill in applied psychotherapy as prescribed by the Board of Licensed Professional Counselor Examiners, and a written, mail-in jurisprudence examination.

The Statute delineates the continuing competency requirement for professional counselors. The Board of Licensed Professional Counselor Examiners is required to adopt rules establishing a continued competency professional program that determines:

> the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a regulated mental health professional, as applicable, according to generally accepted industry standards and professional ethical standards in a designated role and setting.[110]

[107] § 12-43-601(5)(a)(I), C.R.S.
[108] § 12-43-601(5)(a)(II), C.R.S.
[109] §§ 12-43-603(1)(a-e), C.R.S.
[110] § 12-43-605(3), C.R.S.

Part 7: Unlicensed Psychotherapists

Part 7 includes provisions for the regulation of unlicensed psychotherapists. An unlicensed psychotherapist is,

> any person whose primary practice is psychotherapy or who holds himself or herself out to the public as being able to practice psychotherapy for compensation and who is not licensed under [Title 12] to practice psychotherapy.[111]

In order to be registered as an unlicensed psychotherapist in the State Grievance Board database, a candidate must provide the following information to the State Grievance Board:[112]

- Name;
- Current address;
- Educational qualifications;
- Copy of the disclosure statements to be used;
- Therapeutic orientation or methodology (or both); and
- Years of experience in each specialty area.

Unlicensed psychotherapists must also pass a written, mail-in jurisprudence examination prior to being registered in the State Grievance Board database.

Also, unlicensed psychotherapists who are registered in the State Grievance Board database cannot use the terms "registered," "regulated," "certified," "clinical," "state-registered," or "state-approved."[113]

Part 8: Addiction Counselors

The regulation of addiction counselors is achieved under a bifurcated regulatory system. That is, the Colorado Department of Human Services and DORA provide regulatory oversight. The State Board of Human Services promulgates rules related to standards required for addiction counselors to meet in order to obtain certification or licensure.

Part 8 highlights the Director of the Division's responsibilities regarding addiction counselors. Specifically, the Director of the Division is authorized to certify, license and discipline certified or licensed addiction counselors.[114] Also, the Director of the Division is authorized to promulgate rules requiring addiction counselors who are practicing in Colorado to meet the standards established by the State Board of Human Services.

[111] § 12-43-701(4), C.R.S.
[112] § 12-43-702.5(2), C.R.S.
[113] § 12-43-702.5(3), C.R.S.
[114] § 12-43-803(1), C.R.S.

Addiction counseling is defined as,

> the application of general counseling theories and treatment methods adopted specifically, for alcohol and drug theory and research for the express purpose of treating alcohol and drug problems.[115]

Addiction counseling includes:[116]

- Screening clients;
- Intake assessment;
- Orientation;
- Assessment evaluating a client's strengths, weaknesses, problems and needs in preparation of a treatment plan;
- Treatment plan;
- Counseling;
- Case management;
- Crisis intervention;
- Client education;
- Referral;
- Reporting and record-keeping;
- Consulting; and
- Ethical counselor-client relationship.

There are two levels of regulation concerning addiction counselors: certification and licensure.

The three levels of certification for addiction counselors are:

- Certified Addiction Counselor I (CAC I);
- Certified Addiction Counselor II (CAC II); and
- Certified Addiction Counselor III (CAC III).

The CAC system is intended to function as a progression. That is, once a level of certification is achieved, a person may choose to advance to the next (higher) certification. For example, once a person obtains a CAC I, he or she is eligible to begin working toward fulfilling the requirements to be eligible for a CAC II.

A CAC I is the entry-level certification, and persons with this certification are prohibited from conducting alcohol and drug counseling, both individual and group services, independently.[117]

[115] § 12-43-802(1), C.R.S.
[116] §§ 12-43-802(1)(a-m), C.R.S.
[117] Addiction Counselor Rule 14.140A.

In order to be eligible to apply for a CAC I certification, a candidate must meet the following requirements, including, but not limited to:

- Complete a documented 1,000 hours of clinically supervised work experience, which cannot be completed in less than six months, consisting of at least three of the following alcohol and drug treatment functions: [118]
    - Clinical evaluation consisting of intake, screening and differential assessment;
    - Treatment planning including initial, ongoing and discharge planning;
    - Co-facilitation counseling of individuals, groups, couples or families;
    - Case management services; or
    - Client and family education.

A CAC I candidate must also complete 105 hours of training as follows:[119]

- 21 hours of Alcohol and Drug Abuse Division (ADAD, now known as Division of Behavioral Health)-approved addiction counseling skills class or passing the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) National Certified Addiction Counselor (NCAC II) or Master Addiction Counselor (MAC) examination and viewing the ADAD-approved clinical review of counseling skills videotape;
- 21 hours of a client record management course or passage of the NCAC II examination;
- 21 hours of ADAD-approved principles of addiction treatment classes;
- 14 hours of ADAD-approved training on ethical issues in the alcohol and drug setting and federal confidentiality regulations;
- 14 hours of diversity in treatment populations; and
- 14 hours of infectious diseases in the alcohol and drug treatment setting.

CAC II candidates are required to fulfill the training required for a CAC I and complete 105 hours of additional training as follows:[120]

- 14 hours of differential assessment and treatment planning;
- 14 hours of motivational interviewing;
- 21 hours of group counseling;
- 28 hours of pharmacology I and II;
- 14 hours of cognitive behavioral therapy; and
- 14 hours of ADAD-approved training related to clinical issues.

[118] Addiction Counselor Rule 14.300D 1-5.
[119] Addiction Counselor Rule 14.300F 1-6.
[120] Addiction Counselor Rule 14.400F 1-6.

The experience requirements for eligibility to possess a CAC II certification are dependent on the level of education a candidate possesses. For a candidate without an advanced degree (master's or doctorate degree), a minimum of 3,000 hours of clinically supervised work experience, which cannot be completed in less than 18 months, is required.

A candidate for a CAC II certification who possesses either a clinical master's or doctorate degree must complete a minimum of 2,000 hours of clinically supervised work experience, which cannot be completed in less than 12 months.[121]

The documented supervised work experience must be completed in at least three of the following areas:[122]

- Clinical evaluation consisting of intake, screening and differential assessment;
- Treatment planning, including initial, ongoing and discharge planning;
- Counseling of individuals, groups, couples or families;
- Case management, which includes assessment of the needs of the client and the client's family, service planning, referral and linkage to other services, advocacy, monitoring and crisis management; or
- Client and family education.

CAC III candidates are required to fulfill the training required for a CAC I and CAC II as well as complete an additional 105 hours of training, as follows:[123]

- 21 hours in clinical supervision;
- 21 hours in advanced counseling skills;
- 14 hours in therapeutic resistance; and
- 49 hours of ADAD-approved training related to clinical issues.

To be eligible to obtain a CAC III certification, a candidate must complete a minimum of 5,000 hours of clinically supervised work experience, which cannot be completed in less than 30 months. A candidate who possesses a clinical master's degree is required to complete a minimum of 4,000 hours of clinically supervised work experience, which cannot be completed in less than 24 months.[124] Also, a candidate who possesses a doctorate degree must complete a minimum of 3,000 hours of clinically supervised work experience, which cannot be completed in less than 18 months.[125]

[121] Addiction Counselor Rule 14.400D 5.
[122] Addiction Counselor Rule 14.400D 1-5.
[123] Addiction Counselor Rule 14.500F 1-4.
[124] Addiction Counselor Rule 14.500D 6.
[125] Addiction Counselor Rule 14.500D 6.

Work experience must include at least three of the following alcohol and drug treatment functions:[126]

- Clinical evaluation consisting of intake, screening and differential assessment;
- Treatment planning including initial, ongoing and discharge planning;
- Counseling of individuals, groups, couples or families;
- Case management services;
- Client and family education; or
- Clinical supervision.

In order to obtain a license as an addiction counselor, a candidate is required to meet all of the requirements for a CAC III, possess a minimum of a master's degree from a regionally accredited program and pass the MAC examination,[127] which is administered by the NAADAC.[128]

All addiction counselors are required to pass a written, mail-in jurisprudence examination prior to obtaining certification or licensure.

The Statute delineates the continuing competency requirement for CAC II, CAC III and licensed addiction counselors. The Director of the Division is required to adopt rules establishing a continued competency professional program that determines:

> the ongoing ability of a (licensee) to learn, integrate, and apply the knowledge, skill, and judgment to practice as an addiction counselor, as applicable, according to generally accepted industry standards and professional ethical standards in a designated role and setting.[129]

[126] Addiction Counselor Rule 14.500D 1-6.
[127] §§ 12-43-804(a) and (b), C.R.S.
[128] Addiction Counselor Rule 14.600C.
[129] § 12-43-805(3), C.R.S.

Program Description and Administration

The Mental Health Statute (Statute) in section 12-43-101, *et seq.,* Colorado Revised Statutes, provides regulatory authority over six mental health professions:

- Psychologists;
- Social workers;
- Marriage and family therapists;
- Professional counselors;
- Unlicensed psychotherapists; and
- Addiction counselors.

Five mental health professions (psychologists, social workers, marriage and family therapists, professional counselors and unlicensed psychotherapists) operate under their own Type 1, policy autonomous boards, which are responsible for licensing, rule-making and policy-making. The boards are comprised of seven members (four public members and three professional members) who are appointed by the Governor.

The Statute contains language requiring the boards to convene at least once annually. In practice, the boards meet every other month or six times per year.

The Division of Registrations (Division), which is located within the Department of Regulatory Agencies (DORA), is responsible for the administrative functions related to the boards. Specifically, Division staff is responsible for a variety of oversight duties, including, issuing licenses, conducting investigations, preparing meeting agendas, taking meeting minutes, and advising board members on regulatory issues.

Additionally, the Director of the Division is responsible for regulatory oversight of addiction counselors. As such, the Director of the Division is authorized to certify, license, and discipline certified and licensed addiction counselors.[130] To assist in regulatory oversight issues, the Director of the Division created an Addiction Counselor Advisory Committee (Committee). The Committee consists of five professional members, and its charge is to review complaints and make recommendations to the Director of the Division.

Division staff also provides administrative support to the Director of the Division, such as reviewing certification and licensing applications.

[130] § 12-43-803(1), C.R.S.

In fiscal year 08-09, the Division devoted 5.05 full-time equivalent (FTE) employees to provide professional support to the mental health boards and the Director of the Division. The FTE employees are as follows:

- Administrative Assistant – 2.00 FTE;
- Program Assistant – 1.75 FTE;
- Program Director – 1.00 FTE; and
- Section Director – 0.30 FTE.

The aforementioned FTE do not include staffing in the centralized offices of the Division, which include the following:

- Director's Office;
- Office of Investigations;
- Office of Expedited Settlement;
- Office of Examination Services;
- Office of Licensing; and
- Office of Support Services.

The cost for these FTE is reflected in Table 1, Total Program Expenditures. The boards pay for these FTE through a cost allocation methodology developed by the Division and DORA's Executive Director.

Table 1 highlights the total expenditures for the regulation of the mental health professions in fiscal years 04-05 through 08-09.

Table 1
Total Program Expenditures in Fiscal Years 04-05 through 08-09

Fiscal Year	Cash Fund Expenditures
04-05	$996,809
05-06	$1,107,718
06-07	$1,243,733
07-08	$1,176,194
08-09	$1,409,063

According to Division staff, total program expenditures have increased during fiscal years 04-05 through 08-09 because the number of regulated mental health professionals has increased. Generally, an increase in regulated professionals necessitates more expenditures on oversight issues, such as legal expenses associated with formal disciplinary actions.

Licensing, Certification and Registration

Four of the mental health boards issue licenses (Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners and Board of Licensed Professional Counselor Examiners). Unlicensed psychotherapists are required to be registered in the State Grievance Board database. Also, addiction counselors utilize a director model of regulatory oversight where the Director of the Division issues certifications to certified addiction counselors (CAC I, II and III) as well as issues licenses to candidates who qualify for licensure (licensed addiction counselor or LAC). There are a variety of licenses, certifications and registrations available for mental health professionals, which include:

- Licensed psychologist;
- Psychologist candidate registry;
- Licensed clinical social worker;
- Licensed social worker;
- Licensed marriage family therapist;
- Licensed professional counselor;
- Unlicensed psychotherapist;
- CAC I;
- CAC II;
- CAC III; and
- LAC.

Table 2 highlights the total number of licensed, certified and registered mental health professionals in fiscal years 04-05 through 08-09. For detailed licensing information for each individual mental health profession, please refer to Appendix A on page 66.

Table 2
Total Number of Regulated Mental Health Professionals in Fiscal Years 04-05 through 08-09

Fiscal Year	Number of Licensed, Certified and Registered Mental Health Professionals
04-05	14,715
05-06	14,584
06-07	16,074
07-08	15,903
08-09	17,744

As illustrated in Table 2, the total number of regulated mental health professionals has increased during fiscal years 04-05 through 08-09. In fact, when comparing the total number of regulated professionals in fiscal years 04-05 and 08-09, the increase is approximately 17 percent.

During fiscal year 09-10, the initial license fee for psychologists, social workers, marriage and family therapists and professional counselors was $160; unlicensed psychotherapists must also pay $160 to be registered in the State Grievance Board database. Additionally, LACs must pay an initial licensing fee of $225, and CACs I, II and III pay a $200 initial certification fee.

Also, in fiscal year 08-09, the license renewal fee for psychologists was $221, $107 for social workers, $302 for marriage and family therapists, $127 for professional counselors, $137 for unlicensed psychotherapists and $191 for CACs I, II and III as well as LACs.

All mental health professionals are required to renew their license, certification, or registration every two years, and they are only required to pay the aforementioned renewal fee.

Additionally, social workers, marriage and family therapists, professional counselors, unlicensed psychotherapists and addiction counselors have continued competency requirements. The requirements are in the process of being developed.

A mental health professional, with the exception of an unlicensed psychotherapist, can obtain licensure or certification by endorsement if he or she,

> is licensed, registered or certified, and is in good standing under the laws of another jurisdiction if the candidate presents proof to the board(s) or Director of the Division that he or she possesses credentials and qualifications that are substantially equivalent to the requirements for regulation under the mental health profession for which the candidate is applying.[131]

During fiscal year 08-09, a candidate for licensure by endorsement for psychologists, social workers, marriage and family therapists and professional counselors were required to pay the endorsement fee of $210. All CACs (I, II and III) as well as LACs must pay an endorsement fee of $225. Since there are no minimum credentials or qualifications for unlicensed psychotherapists, this process is not available to them.

Although the boards currently delegate the function of licensing and certification to Division staff, there are instances where boards (including the Committee) may review licensing or certification applications to determine whether a candidate should be granted a license or certification. For example, if a candidate has disclosed that he or she has had substance abuse issues in the past, the board typically reviews the application and may choose a variety of options, including:

- Approving the application;
- Approving the application pending an evaluation of the candidate;
- Approving the application with stipulations; or
- Denying the application.

[131] § 12-43-206, C.R.S.

Additionally, all of the mental health professions that require licensure or certification require a certain number of hours of supervised work experience. The number of hours of supervised work experience depends on the mental health profession and, in the case of certified addiction counselors, the level of certification. If there is uncertainty about whether the supervised work experience a candidate has completed is adequate, a board or the Director of the Division may review the supervised work experience and determine if the experience satisfies the requirement for licensure or certification.

Also, if there are concerns or ambiguity concerning the type of degree or whether a candidate received a degree from an "accredited" school, the boards or the Director of the Division can review the application and grant or deny a license based on its determination of whether a school meets the requirements for licensure.

Finally, staff may request a board to review a licensing or certification application if an individual is regulated by more than one board.

Examinations

There are two types of examinations utilized for the mental health professions: the Division's jurisprudence examination and professional licensing/certification examinations.

All of the mental health professionals must take and pass the mail-in jurisprudence examination prior to practicing.

Additionally, psychologists, social workers, marriage and family therapists, professional counselors and licensed addiction counselors must pass a professional licensing/certification examination prior to obtaining a license to practice.

Since there are no minimum requirements to be eligible to be registered in the State Grievance Board database as an unlicensed psychotherapist, a candidate is not required to take and pass a professional licensing examination.

Table 3 provides an aggregate overview of the total number of examinations (both jurisprudence and professional) in fiscal years 04-05 through 08-09. Detailed examination information specific to each mental health profession is in Appendix B on page 71.

Table 3
Total Number of Jurisprudence and Professional Examinations in Fiscal Years 04-05 through 08-09

Fiscal Year	Number of Jurisprudence Examinations Given	Number of Professional Examinations Given
04-05	1,428	530
05-06	1,587	498
06-07	1,767	638
07-08	1,928	644
08-09	1,941	696

Jurisprudence Examination

All candidates are required to complete and pass a jurisprudence examination prior to being licensed, certified or registered as a mental health professional.

The jurisprudence examination is an open-book, mail-in examination, consisting of 42 multiple-choice questions, that tests a candidate's knowledge of the current Statute as well as applicable rules. The examination was developed by a committee established by Division staff, which included a member of each mental health profession as well as various stakeholders from the community.

Psychologists

In order to obtain a license to practice as a psychologist, a candidate is required to pass an examination. Colorado utilizes the Examination for Professional Practice in Psychology (EPPP), developed and owned by the Association of State and Provincial Psychology Boards.[132]

The EPPP is offered at Prometric Testing Centers throughout the country, including Colorado. Prometric Testing Centers in Colorado are located in Colorado Springs, Denver, Grand Junction and Longmont. The fee to take the examination is $450 plus an additional computer-based testing fee of $67.50.[133]

[132] Association of State and Provincial Psychology Boards. *ASPPB Information for Candidates.* Retrieved June 22, 2010, from http://www.asppb.net/files/public/IFC.pdf
[133] Association of State and Provincial Psychology Boards. *ASPPB Information for Candidates.* Retrieved June 22, 2010, from http://www.asppb.net/files/public/IFC.pdf

The EPPP consists of 225 multiple-choice questions, and a candidate must complete the examination in 4 hours and 15 minutes.[134] The examination consists of eight content areas:[135]

- Biological bases of behavior;
- Cognitive-affective bases of behavior;
- Social and multi-cultural bases of behavior;
- Growth and life-span development;
- Assessment and diagnosis;
- Treatment, intervention and prevention;
- Research methods and statistics; and
- Ethical, legal and professional issues.

Social Workers

Social worker licensing examinations are developed and maintained by the Association of Social Work Boards (ASWB) and follow standards developed jointly by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education. Nationwide, candidates may examine in five categories: Associate, Bachelors, Masters, Advanced Generalist, and Clinical.[136]

The ASWB contracts with ACT, Inc. to implement test administration and delivery.[137] ACT has five testing centers located in Colorado. The ACT testing centers are located in Centennial, Delta, Denver, Greeley and Pueblo. The examination fees are $230 for the Bachelors or Masters examinations and $260 for the Advanced Generalist or Clinical examinations.[138] Each ASWB examination contains 170 multiple-choice questions. A candidate has four hours to complete the examination, which is administered through a networked computer.[139]

There are two social worker license types in Colorado. A Licensed Social Worker (LSW) must pass the ASWB Masters, Advanced, or Clinical examination and a Licensed Clinical Social Worker (LCSW) must pass either the ASWB Advanced or the Clinical examination, in order to become licensed.[140]

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[134] Association of State and Provincial Psychology Boards. *EPPP Exam Information.* Retrieved June 22, 2010, from http://www.asppb.net/i4a/pages/index.cfm?pageid=3433
[135] Association of State and Provincial Psychology Boards. *ASPPB Information for Candidates.* Retrieved June 22, 2010, from http://www.asppb.net/files/public/IFC.pdf
[136] Association of Social Work Boards, *Candidate Handbook, ASWB Social Work Licensing Examinations 2010*. Retrieved June 24, 2010, from http://www.aswb.org/pdfs/handbook.pdf p.2.
[137] Association of Social Work Boards, *Candidate Handbook, ASWB Social Work Licensing Examinations 2010*. Retrieved June 24, 2010, from http://www.aswb.org/pdfs/handbook.pdf p.7.
[138] Association of Social Work Boards, *Candidate Handbook, ASWB Social Work Licensing Examinations 2010*. Retrieved June 24, 2010, from http://www.aswb.org/pdfs/handbook.pdf
[139] Association of Social Work Boards, *Candidate Handbook, ASWB Social Work Licensing Examinations 2010*. Retrieved June 24, 2010, from http://www.aswb.org/pdfs/handbook.pdf p.3.
[140] Colorado Division of Registrations, Office of Licensing—Social Worker, *Applicant Checklist*.

Table 4 outlines the subject matter covered in each of the examinations that are acceptable for Colorado licensure. [141]

Table 4
Social Work License Examination's Content Areas

Masters Examination	Advanced Examination	Clinical Examination
Human Development and Behavior in the Environment	Human Development and Behavior in the Environment	Human Development and Behavior in the Environment
Diversity and Social/Economic Justice	Issues of Diversity	Issues of Diversity
Assessment, Diagnosis, and Intervention Planning	Assessment, Diagnosis, and Intervention Planning	Diagnosis and Assessment
Direct and Indirect Practice	Direct and Indirect Practice	Psychotherapy and Clinical Practice
Communication	Communication	Communication
Professional Relationships	Relationship Issues	The Therapeutic Relationship
Professional Values and Ethics	Professional Values and Ethics	Professional Values and Ethics
Supervision, Administration, and Policy	Supervision and Professional Development	Clinical Supervision and Staff Development
Practice Evaluation and the Utilization of Research	Practice Evaluation and the Utilization of Research	Practice Evaluation and the Utilization of Research
Service Delivery	Service Delivery	Service Delivery
	Administration	Clinical Practice and Management

Marriage and Family Therapists

To obtain a marriage and family therapist license, a candidate must pass the National Marital and Family Therapy Examination. Candidates take the examination during a 28-day window of time, at testing locations offered through Prometric Testing Centers in Colorado, which are located in Colorado Springs, Denver, Grand Junction and Longmont. The examination is administered via computer during three windows per year.[142]

Candidates must fill out an application; pay a $220 examination fee, and an additional $75 site fee.[143]

[141] Association of Social Work Boards, *Candidate Handbook, ASWB Social Work Licensing Examinations 2010*. Retrieved June 24, 2010, from http://www.aswb.org/pdfs/handbook.pdf pp.16-18.
[142] Association of Marital and Family Therapy Boards, *Exam Dates*. Retrieved June 23, 2010 from http://www.amftrb.org/examdate.cfm?wwparam=1277306066
[143] *Ibid.*

The examination consists of 200 multiple-choice questions[144] covering knowledge in five domains:[145]

Domain 01 The Practice of Marital and Family Therapy

This domain encompasses tasks related to incorporating systemic theory and perspectives into practice activities, and establishing and maintaining ongoing therapeutic relationships with the client system.

Domain 02 Assessing, Hypothesizing, and Diagnosing

This domain encompasses tasks related to assessing the various dimensions of the client system, forming and reformulating hypotheses, and diagnosing the client system in order to guide therapeutic activities.

Domain 03 Designing and Conducting Treatment

This domain encompasses tasks related to developing and implementing interventions with the client system.

Domain 04 Evaluating Ongoing Process and Terminating Treatment

This domain encompasses tasks related to continuously evaluating the therapeutic process and incorporating feedback into the course of treatment, as well as planning for termination.

Domain 05 Maintaining Ethical, Legal, and Professional Standards

This domain encompasses tasks related to ongoing adherence to legal and ethical codes and treatment agreements, maintaining competency in the field, and professionalism.

Professional Counselors

To obtain a professional counselor license, a candidate must pass the National Counselor Examination for licensure and certification (NCE) examination, which is administered by the National Board for Certified Counselors (NBCC).

The NCE examination is offered at three Applied Management Program testing centers in Colorado. The NCE examination sites are in Denver, Grand Junction and Pueblo. The fee to take the NCE examination is $185.

[144] Professional Examination Service, *Information for Candidates; Examination in Marital and Family Therapy*. Retrieved June 23, 2010 from http://www.amftrb.org/PDF/info4candidate.pdf (p.3)
[145] Professional Examination Service, *Information for Candidates; Examination in Marital and Family Therapy*. Retrieved June 23, 2010 from http://www.amftrb.org/PDF/info4candidate.pdf (p.6)

The NCE examination is a computer-based examination consisting of 200 multiple-choice questions. A candidate must complete the examination within four hours. The examination contains eight major content areas:[146]

- Human growth and development;
- Social and cultural foundations;
- Helping relationships;
- Group work;
- Career and lifestyle development;
- Appraisal;
- Research and program evaluation; and
- Professional orientation and ethics.

Addiction Counselors

Addiction counselors are not required to pass an examination prior to becoming a CAC I, II or III. Instead, the passage of a certification examination can replace some of the required alcohol and drug training for a CAC I. However, in order to become a LAC, a candidate must pass the Master Addiction Counselor (MAC) examination.

Currently, there are two types of certification examinations utilized in Colorado for addiction counselors: National Certified Addiction Counselor (NCAC II) and MAC. These examinations are developed and offered by the National Association of Alcoholism and Drug Abuse Counselors (NAADAC).

To be eligible for the NCAC II examination, a candidate is required to possess a bachelor's degree from a regionally accredited college or university with an emphasis in the counseling of addiction clients.[147] A candidate must also complete five years full-time or 10,000 hours (not more than 2,000 per year) of supervised experience in alcoholism and/or drug abuse counseling.[148]

Both the NCAC II and MAC examinations are offered at Professional Testing Corporation (PTC) locations. PTC locations in Colorado include: Broomfield, Centennial, Colorado Springs, Durango, Garden City, Grand Junction, Pueblo and Wheat Ridge.

The fee for the NCAC II examination is $305 for non-NAADAC members and $205 for NAADAC members.

[146] National Board for Certified Counselors. *The National Counselor Examination for Licensure and Certification (NCE).* Retrieved June 22, 2010, from http://www.nbcc.org/certifications/ncc/NCE.aspx
[147] National Certification Commission Examination for Addiction Counselors Level I and II. *Handbook for Candidates.* Retrieved June 22, 2010, from http://www.ptcny.com/PDF/NCC.pdf
[148] National Certification Commission Examination for Addiction Counselors Level I and II. *Handbook for Candidates.* Retrieved June 22, 2010, from http://www.ptcny.com/PDF/NCC.pdf

The NCAC II examination consists of 250 multiple-choice questions, and a candidate must complete the examination in four hours.[149] The examination includes the following content areas:[150]

- Pharmacology of psychoactive substances;
- Counseling practice;
- Theoretical base of counseling; and
- Professional issues.

To be eligible for the MAC examination, a candidate must complete a number of requirements, including possessing a master's degree from an accredited college or university with an emphasis in the counseling of addicted clients.[151]

The fee to take the MAC examination is $335 for non-NAADAC members and $235 for NAADAC members.

The MAC examination consists of 200 multiple-choice questions and must be completed in four hours. The examination contains the following content areas:[152]

- Pharmacology of psychoactive substances;
- Counseling practice; and
- Professional issues.

Complaints/Disciplinary Actions

There is a wide variety of complaints received concerning mental health practitioners. Table 5 provides an aggregate total of both the number and types of complaints received by the boards and the Director of the Division. Complaint information for each mental health profession is located in Appendix C on page 73.

[149] National Certification Commission Examination for Addiction Counselors Level I and II. *Handbook for Candidates.* Retrieved June 22, 2010, from http://www.ptcny.com/PDF/NCC.pdf
[150] National Certification Commission Examination for Addiction Counselors Level I and II. *Handbook for Candidates.* Retrieved June 22, 2010, from http://www.ptcny.com/PDF/NCC.pdf
[151] National Certification Examination for Master Addiction Counselors. *Handbook for Candidates.* Retrieved June 22, 2010, from http://www.ptcny.com/PDF/MAC.pdf
[152] National Certification Examination for Master Addiction Counselors. *Handbook for Candidates.* Retrieved June 22, 2010, from http://www.ptcny.com/PDF/MAC.pdf

Table 5
Total Number of Complaints Received by the Boards and the Director of the Division in Fiscal Years 04-05 through 08-09

Nature of Complaint	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Practicing without a License, Certification or Registration	1	47	28	35	27
Standard of Practice	222	340	215	315	274
Scope of Practice	16	9	14	8	30
Sexual Misconduct	7	4	6	13	9
Felony Conviction	0	5	4	5	8
Substance Abuse	7	7	4	8	14
Other	91	56	81	76	12
Total	344	468	352	460	374

Clearly, as highlighted in Table 5, the majority of complaints that the boards and the Director of the Division received in fiscal years 04-05 through 08-09 were related to "Standard of Practice" issues. The Standard of Practice category is very broad and encompasses a variety of actions, which include, but are not limited to:

- Substandard therapy;
- Breach of confidentiality; and
- Inadequate disclosure statement.

The "Other" category in Table 5 is also very broad and includes complaints such as a mental health professional who does not properly refer a client to another therapist if the client's issues are beyond his or her training, experience or competence.

Additionally, unlicensed psychotherapists received the vast majority of complaints to the boards or the Director of the Division regarding mental health professionals practicing without a license. In fact, all but five complaints in the practicing without a license category during fiscal years 04-05 through 08-09 were filed against unlicensed psychotherapists.

When the boards or the Director of the Division receive a complaint, staff reviews it and typically sends a 30-day letter to the mental health professional (respondent), informing him or her that a complaint has been filed. In addition to notifying the respondent of a complaint, the 30-day letter provides the respondent an opportunity to formally respond to the allegations. A respondent is not required to formally respond to the allegations via the 30-day letter. However, if a respondent responds to the allegations, staff, if necessary for further clarification, forwards the response to the complainant. The complainant has 10 days to respond to or add additional information to the respondent's 30-day letter.

After all of the information has been received by Division staff, the complaint and correspondence from the respondent and complainant are given to the board, or the Director of the Division for addiction counselor complaints, for review.

Upon reviewing the information, the board or the Director of the Division has several options available, including, but not limited to:

- Dismissing the complaint for lack of jurisdiction;
- Dismissing the complaint for lack of violation;
- Dismissing the complaint with a confidential letter of concern;
- Referring the case to the Division's Office of Investigations; or
- Referring the case directly to the Attorney General's Office for legal action.

Table 6 highlights the total number of disciplinary actions imposed on mental health professionals, and dismissals, in fiscal years 04-05 through 08-09. Disciplinary actions for each mental health profession are in Appendix D on page 75.

Table 6
Total Final Agency Actions in Fiscal Years 04-05 through 08-09

Type of Action	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Revocation/Surrender/Voluntary Relinquishment	21	10	15	0	9
Suspension	6	5	4	2	13
Probation/Practice Limitation	19	15	22	32	15
Letter of Admonition	14	24	25	20	11
Other	1	16	5	5	8
Total Disciplinary Actions	**63**	**70**	**71**	**59**	**56**
Dismiss	213	354	199	333	215
Letter of Concern	42	171	60	177	47
Total Dismissals	**255**	**525**	**259**	**510**	**262**

In fiscal years 04-05 through 08-09, there were a total of 1,998 complaints filed against mental health practitioners. During this five-year period, there were a total of 319 disciplinary actions imposed on mental health professionals. This illustrates that the mental health boards and the Director of the Division impose discipline on 16 percent of the complaints received. In other words, 84 percent of the complaints against mental health practitioners are dismissed by the boards and the Director of the Division.

As highlighted in Table 6, there is variation in the total number of dismissals in fiscal years 04-05 through 08-09. According to Division staff, this variation is attributable to staff mistakenly opening complaints. For example, Division staff stated that in certain instances staff would initiate criminal audits, which would erroneously open complaint cases; Division staff would then administratively close those cases. Division staff received training on how to prevent erroneously opening complaint cases, and to date, the issue has been corrected.

It is important to note that the boards, and the Director of the Division, are charged with enforcing the standards promulgated by the Division of Criminal Justice (DCJ), Domestic Violence Offender Management Board (DVOMB). The DVOMB has the statutory authority to approve domestic violence offender treatment providers, who are required to be licensed, certified or registered by one of the mental health boards or the Director of the Division. The DVOMB does not have the authority to formally discipline domestic violence offender treatment providers; instead, it can only list and de-list providers. The mental health boards or the Director of the Division have the authority to impose discipline.

The DCJ's Sex Offender Management Board (SOMB) has the authority to approve sex offender treatment providers. The SOMB also has limited authority to discipline sex offender treatment providers for violations of SOMB standards, including listing and de-listing providers. However, if sex offender treatment providers violate the mental health statute or rules, the boards and the Director of the Division have the authority to impose discipline.

The types of discipline imposed on practitioners are varied. The most common form of discipline, as highlighted in Table 6, and utilized by the boards and the Director of the Division, is probation or practice limitation.

The boards and the Director of the Division have a variety of options available concerning formal discipline. If a board or the Director of the Division determines that a mental health practitioner has violated the mental health statute or applicable rules, the board or Director of the Division may issue a letter of admonition (LOA) (the lowest form of discipline) to the respondent of a complaint. The respondent has 20 days after receipt of the LOA to formally respond to the board or Director of the Division with objections to the LOA. If the mental health practitioner submits a timely objection to the LOA, the board or Director of the Division is required to vacate the LOA and refer the case to the Attorney General's Office for initiation of formal proceedings against the therapist.[153]

The boards or the Director of the Division may also utilize the Expedited Settlement Process (ESP) within the Division to settle a disciplinary matter. The ESP process was established to resolve disciplinary issues without a formal hearing. ESP staff obtains the parameters concerning the level of discipline that the board or the Director of the Division believes is warranted. Settlement terms may include any of the following:[154]

- Practice evaluation by a board-approved evaluator;
- Therapy evaluation by a board-approved therapist;
- Practice monitoring (a form of probation) for a specific period of time;
- Therapy monitoring (also a form of probation) for a specific period of time; or
- Continuing education, usually 20 hours for each year under monitoring.

[153] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.15.
[154] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.15.

The boards or the Director of the Division may also settle with suspension, revocation, or voluntary surrender of a license.[155] Such action may follow-up with a fitness to practice evaluation, practice or therapy monitoring and continuing education for a specific period of time prior to license reinstatement or after reinstatement, depending on the nature of the case.[156]

During fiscal years 04-05 through 08-09, the ESP process resolved 163 cases related to mental health professionals. Specifically, 21 cases were resolved in fiscal year 04-05, 38 cases were resolved in fiscal year 05-06, 31 cases were resolved in fiscal year 06-07, 35 cases were resolved in fiscal year 07-08 and 38 cases were resolved in fiscal year 08-09.

If the ESP process fails, that is, the respondent does not agree to the terms offered through the ESP process, the boards or the Director of the Division may refer the case to the Attorney General's Office for formal proceedings against a mental health practitioner's license, certification or registration.

Once the Attorney General's Office receives a case, there are three options available:

- Dismiss the case;
- Recommend settling the case; or
- File formal charges on behalf of the board or the Director of the Division.

The Attorney General's Office may recommend dismissal of a case. Cases are generally dismissed for lack of evidence to prove the mental health professional has violated the mental health statute or applicable rules.

The Attorney General's Office may recommend settlement of the case when new (usually mitigating) information is obtained by the attorney, there are problems with provability of the claims, or if settlement is in the best interest of justice.[157]

If the Attorney General's Office files formal charges against a mental health practitioner on behalf of a board or the Director of the Division, the case is scheduled for an administrative hearing before an administrative law judge (ALJ). During a hearing before an ALJ, both sides, the respondent (oftentimes an attorney hired by the respondent) and Attorney General's Office, present evidence. The ALJ is authorized to issue an initial opinion which may be rejected, amended or accepted by the board or the Director of the Division.[158] An ALJ may also recommend sanctions against the mental health professional based on aggravating or mitigating evidence presented during the hearing.[159]

[155] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.15.
[156] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.15.
[157] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.16.
[158] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.16.
[159] Jurisprudence Resource Manual: Fundamentals of Psychotherapy Practice in Colorado. p.16.

If the boards or the Director of the Division adopt the ALJ decision, a Final Agency Order is issued, which outlines the discipline imposed on the mental health professional.

If, however, a mental health practitioner disagrees with the findings of the ALJ and subsequently, the board or Director of the Division, he or she may appeal the decision to the Court of Appeals.

Importantly, when a mental health professional is formally disciplined, the discipline is reported to the national Healthcare Integrity and Protection Databank (HIPDB). The HIPDB is maintained and operated by the U.S. Department of Health and Human Services.

Analysis and Recommendations

Recommendation 1 – Continue the Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners, Board of Licensed Professional Counselor Examiners, State Grievance Board and the regulation of addiction counselors for nine years, until 2020.

Mental health professionals (psychologists, social workers, marriage and family therapists, professional counselors, unlicensed psychotherapists and addiction counselors) utilize psychotherapy while treating clients. Psychotherapy is defined in section 12-43-201(9), Colorado Revised Statutes (C.R.S.), as:

> the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention which takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, it can be a single intervention. It is the intent of the General Assembly that the definition of psychotherapy as used in this part [2] be interpreted in its narrowest sense to regulate only those persons who clearly fall within the definition set forth in this subsection.

However, mental health professionals do not exclusively provide psychotherapy to clients; instead, they perform a broad range of duties, such as research and community organizing.

The first sunset criterion asks whether regulation is necessary to protect the health, safety and welfare of the public. As evidenced by the number of complaints received and disciplinary actions imposed on mental health practitioners by the Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners, Board of Licensed Professional Counselor Examiners, State Grievance Board (boards) and the Director of the Division of Registrations (Division), for addiction counselors, consumers have been harmed by mental health professionals.

In an attempt to identify the scope and depth of consumer harm, Department of Regulatory Agencies (DORA) staff collected and reviewed a random sample of more than 150 case files from calendar years 2004 through 2010, which included cases involving both formal discipline and dismissals (including confidential letters of concern).

A detailed review of the case files highlighted the fact that violations of the Mental Health Statute (Statute) by mental health professionals were much broader than issues exclusively associated with psychotherapy; instead, there was a wide variety of violations, including, but not limited to:

- Providing incomplete disclosure statements to clients;
- Failing to complete a mental health evaluation;
- Practicing with a lapsed license; and
- Working as an addiction counselor while under the influence of drugs.

In addition to the harm identified during this sunset review, there is also a potential for mental health professionals to harm consumers. This is evidenced by the fact that during therapy, a relationship exists where a vulnerable person (consumer) confides personal issues or feelings to a therapist. Mental health professionals are then in a unique position where they have tremendous influence over clients. This could create an uneven playing field where a therapist may coerce a client into having sex with him or her in exchange for therapy, or a therapist may enter into an unfair business relationship with a client. As such, the potential for harm to consumers is a distinct possibility. Therefore, the regulation of mental health professionals is warranted.

Utilizing the third, eighth, and ninth sunset criteria, which guide the sunset review process, and basically ask if the regulatory processes, practices, and bodies operate efficiently and effectively, raises the question: Is there a better way to regulate the mental health professions?

This question is important because of issues raised during interviews with interested parties and stakeholders for this sunset review. It was argued by some professionals that the boards should be comprised of professional member majorities instead of the current public member majorities.[160] They argue that because the mental health professions are unique, to be able to effectively determine whether a violation of the Statute or rules has occurred, a professional member majority is necessary.

During DORA staff's review of case files, it was clear that the current composition of the boards was able to effectively discern whether a violation of the Statute or applicable rules occurred. Experience as a psychologist, for example, was not necessary to determine whether a violation occurred.

In addition to reviewing files, DORA staff monitored board meetings and recognized that board members possessed the appropriate level of expertise, or knowledge of the Statute and rules, to effectively discern whether a mental health professional should be disciplined.

[160] The current member configuration for each of the boards is four public members and three professional members.

Further, section 12-43-203(3)(d), C.R.S., currently provides a mechanism for the boards to convene advisory committees comprised of professionals who possess the appropriate level of knowledge in the unlikely event that a board lacks the necessary expertise to determine whether a violation occurred. Division staff reported that in fiscal years 04-05 through 08-09, none of the boards convened an advisory committee to address complex issues.

Consumer protection is the driving force behind regulation of occupations and professions. Review of the regulatory structure erected to police the mental health professions has determined that regulation is necessary. Furthermore, this sunset review highlighted the fact that the current structure (five boards) and the current composition of the boards are working well to provide protection to consumers. Importantly, however, Recommendation 2 in this sunset review recommends the creation of an addiction counselor board, which would mirror the other mental health boards regarding licensing and disciplinary authority.

As such, the General Assembly should continue the Board of Psychologist Examiners, Board of Social Work Examiners, Board of Marriage and Family Therapist Examiners, Board of Licensed Professional Counselor Examiners, State Grievance Board and the regulation of addiction counselors for nine years, until 2020.

Recommendation 2 – Repeal the Director of the Division's regulatory oversight related to addiction counselors, and create an addiction counselor board consisting of four public members and three professional members.

Currently, the regulation of addiction counselors is achieved under a bifurcated regulatory system. That is, the Colorado Department of Human Services (DHS) and DORA provide regulatory oversight for addiction counselors.

Section 27-80-108(1)(e), C.R.S., authorizes DHS's State Board of Human Services to promulgate rules related to the standards required for addiction counselors to meet in order to obtain licensure or certification. The Division of Behavioral Health (DBH)[161] within DHS, among other duties, assists with the development of addiction counselors' standards. These standards include, but are not limited to, the development of training courses, including curriculum, as well as oversight of training and supervision of courses.

[161] Formerly Alcohol and Drug Abuse Division.

Further, DBH staff works with a variety of stakeholders to ensure that the standards for addiction counselors are adequate in order to provide effective treatment to clients. More specifically, DBH utilizes the Counselor Certification Training Committee, which is a consortium of interested parties and stakeholders, to assist DBH with issues related to training and core competencies for certified and licensed addiction counselors.

Section 12-43-803(1), C.R.S., authorizes the Director of the Division to certify, license, and discipline certified or licensed addiction counselors. Also, section 12-43-803(2)(a), C.R.S., authorizes the Director of the Division to promulgate rules requiring addiction counselors who are practicing in Colorado to meet the standards established by the State Board of Human Services.

Generally, the bifurcated regulatory oversight system utilized for addiction counselors is effective. However, DORA's regulatory responsibilities related to addiction counselors could be streamlined.

The most compelling argument to repeal the Director of the Division's regulatory oversight of addiction counselors and create a board is the volume of work required by Division staff. Division staff receives a large volume of complaints, and although many of them are dismissed, staff is still charged with reviewing each complaint and making recommendations to the Director of the Division.

Also, the number of addiction counselors has increased from more than 2,000 in fiscal year 01-02 to more than 3,000 in fiscal year 08-09. This growth in the number of addiction counselors has led to an increase in the number of complaints and, subsequently, the number of disciplinary actions imposed on practitioners.

Under a Type 1, policy autonomous board model, which is utilized by the boards, Division staff prepares the complaints for each board member to review as well as discuss at the regularly scheduled board meetings. Although staff still reviews the complaints received, Division staff does not have the added responsibility of creating a memorandum with a synopsis of the complaint, history and recommendation to the Director of the Division. Instead, the board is charged with reviewing the complaints and ultimately determining whether there was a violation of the Statute or applicable rules.

Due to the large volume of complaints (108 in fiscal year 08-09), the creation of an addiction counselor board is necessary. As such, the General Assembly should repeal the Director of the Division's regulatory oversight of addiction counselors and implement a Type 1, policy autonomous board within DORA, which would be responsible for licensing, certifying, disciplining, rule-making and policy-making. In other words, the creation of the addiction counselor board would simply replace the current responsibilities of the Director of the Division regarding addiction counselors. However, the State Board of Human Services will still be responsible for establishing the training standards for addiction counselors. The addiction counselor board should consist of four public members and three professional members.

Recall that DORA staff reviewed more than 150 case files, which included dismissals, confidential letters of concern and formal disciplinary action imposed on mental health practitioners. A review of these case files did not identify instances where the current boards lacked the appropriate level of expertise, or knowledge of the Statute and rules, to effectively discern whether a mental health professional should be disciplined. Therefore, the composition of the addiction counselor board should be consistent with all of the other boards.

The addiction counselor board should mirror the requirements of the other mental health boards concerning board member term limits, disciplinary authority, etc.

The implementation date of the addiction counselor board should be January 1, 2012, which will afford the Governor sufficient time to appoint board members. The January 1, 2012 implementation date would also provide ample time for Division staff to transition from a Director model to formal board oversight.

Recommendation 3 – Continue the provisional license in section 12-43-206.5, C.R.S., and remove the sunset clause from section 12-43-206.5(3), C.R.S.

Section 12-43-206.5, C.R.S., authorizes the boards or the Director of the Division, for addiction counselors, to issue a provisional license to a candidate who has completed a post-graduate degree that meets the educational requirements for licensure concerning psychologists, social workers, marriage and family therapists, professional counselors or addiction counselors. A candidate who meets the requirements for licensure and obtains a provisional license is authorized to work in therapeutic residential child care facilities (TRCCFs) only. Once a candidate obtains a provisional license, he or she must work under the supervision of a licensed mental health practitioner.

The provisional license was created by the General Assembly in 2006 due to a lack of fully licensed mental health professionals to fulfill the demand for services in TRCCFs.

The creation of the provisional license allowed candidates who were working toward fulfilling their respective supervised work experience required to obtain a license for psychologists, social workers, marriage and family therapists, professional counselors and addiction counselors who work in TRCCFs.

There is no limitation on the amount of time a provisional licensee may possess such a license and work in TRCCFs. So, a licensee could choose to possess his or her provisional license for his or her entire career.

During the course of this sunset review, DORA staff did not identify any issues associated with provisional licensees. In fact, DORA staff's review of more than 150 case files from calendar years 2004 through 2010, which included formal discipline and dismissals (including confidential letters of concern), did not identify any case files related to provisional licensees.

The provisional license serves an important purpose because it addresses the lack of fully licensed mental health professionals to fulfill the demand for services in TRCCFs by enabling mental health professionals who are working toward completion of their required supervised work experience to work in these facilities.

As such, the General Assembly should continue the provisional license in section 12-43-206.5, C.R.S., which is utilized by mental health professionals in TRCCFs throughout Colorado.

The General Assembly should also remove the sunset clause in section 12-43-206.5(3), C.R.S., specifically related to the provisional license. Instead, the provisional license should be included with the sunset review of the entire Statute; therefore, a separate sunset clause in the Statute for the provisional license is not necessary.

Recommendation 4 – Create a candidate registry for marriage and family therapists and professional counselors.

Supervised work experience is one element required in order to achieve full licensure for psychologists, social workers, marriage and family therapists, professional counselors and addiction counselors.

Currently, there are processes established for psychologists, social workers and addiction counselors to reside under the jurisdiction of their respective regulatory authorities while candidates are working toward full licensure. However, a uniform process for marriage and family therapists and professional counselors does not exist. So, in order to create consistency within the Statute, marriage and family therapists and professional counselors should have a candidate registry for candidates who have completed the required education requirements.

Section 12-43-304(7), C.R.S., enables a psychologist candidate who has completed the required education (doctorate degree) to register with, and ultimately fall under the jurisdiction of, the Board of Psychologist Examiners. While registered, a psychologist candidate is required to fulfill a minimum of one year of postdoctoral experience practicing psychology under supervision approved by the Board of Psychologist Examiners.[162] A candidate's registry is valid for four years after initial registration and cannot be renewed.

[162] § 12-43-304(1)(d), C.R.S.

Additionally, a social worker who has met the minimum requirements required to obtain a license as a licensed social worker (LSW) is authorized to practice all aspects of social work, including psychotherapy, only when he or she is under the supervision of a licensed clinical social worker (LCSW). A person who possesses an LSW is not required to complete the requisite work experience to be eligible to obtain an LCSW license. In fact, an LSW licensee may choose to practice social work under an LSW license his or her entire career. However, an LSW licensee has the opportunity to complete the necessary work experience requirement to be eligible to obtain an LCSW license.

The LSW license functions as both a practical license for social workers who would like to practice in the field of social work without obtaining an LCSW license, and also as a form of a candidate registry by enabling an LSW licensee to obtain the required work experience necessary to be eligible for an LCSW license while falling under the jurisdiction of the Board of Social Work Examiners.

Similar to psychologists and social workers, addiction counselors have a process in place that enables a person who is progressing through the various certification levels (CAC I, II and III) to potentially achieve licensure and fall under the jurisdiction of the same regulatory oversight, which is currently the Director of the Division.

Conversely, marriage and family therapists and professional counselors are required to fulfill their requisite supervised work experience to be eligible for licensure by either obtaining a provisional license, which enables a licensee to work only in TRCCFs under the supervision of a licensed mental health professional, or by registering with the State Grievance Board database as an unlicensed psychotherapist.

There are several issues associated with the current Statute concerning the process candidates are required to navigate while working toward licensure. First, the Statute is inconsistent in establishing a process for obtaining the required supervised work experience for psychologists, social workers and addiction counselors while mandating a different process for marriage and family therapists and professional counselors.

It has been argued by the mental health professions that each profession is unique and provides its own treatment methodologies to clients. Thus, marriage and family therapists and professional counselor candidates who are working to complete their required supervised work experience should fall under the jurisdiction of their respective boards. Doing so would enable candidates to fall under the jurisdiction of their peers.

In order to create consistency within the Statute and enable all candidates for licensure to fall under the jurisdiction of their respective boards, the General Assembly should create a candidate registry for marriage and family therapists and professional counselors. These candidate registries should mirror the requirements of the current psychologist registry. That is, a candidate is eligible for a candidate registry when he or she completes the required education.

Further, marriage and family therapist and professional counselor candidate registries should be valid for four years and should not be renewable. Including these provisions encourages a candidate who is registered to move towards fulfilling the supervised work experience in order to obtain full licensure.

Creating a candidate registry for marriage and family therapists and professional counselors would enable candidates to fall under the jurisdiction of their respective boards while they are working toward completing the supervised work experience requirements for licensure.

Recommendation 5 – Repeal the current title of "Unlicensed Psychotherapist" and replace with "Registered Psychotherapist."

Section 12-43-701(4), C.R.S., defines an unlicensed psychotherapist as any person whose primary practice is psychotherapy or who holds himself or herself out to the public as being able to practice psychotherapy for compensation and who is not licensed under the Statute to practice psychotherapy.

Section 12-43-702.5(2), C.R.S., requires unlicensed psychotherapists to be registered in the State Grievance Board database. The State Grievance Board is authorized to discipline registrants, including issuing cease and desist orders.[163]

However, the current title, "unlicensed psychotherapist" does not connote that there is any formal state regulatory oversight.

All other mental health professions in Colorado utilize the terms "licensed" or "certified." These terms connote that there is formal governmental oversight; however, a regulatory term is not utilized with unlicensed psychotherapists, which could confuse the public. Therefore, it is reasonable to conclude that the public would not realize that there is formal governmental oversight of unlicensed psychotherapists.

Amending the name of "unlicensed psychotherapist" to "registered psychotherapist" accurately describes these mental health practitioners' title – they are registered. As a result, consumers could recognize that governmental oversight exists and if a therapist has acted inappropriately, consumers could recognize that there is recourse available (discipline) through governmental oversight.

Importantly, updating the name or title of unlicensed psychotherapists does not interfere with any other mental health profession's ability to practice or infringe on their titles. The name change simply reflects that there is formal governmental oversight, as the title of "registered psychotherapist" implies. The change does not modify or amend any of the mental health professionals' fields of practice, expertise or education requirements.

[163] § 12-43-223(4)(a), C.R.S.

Therefore, the General Assembly should repeal the current title utilized by unlicensed psychotherapists in section 12-43-701(4), C.R.S., and implement the title "registered psychotherapist." Doing so, would aptly title these therapists as well as inform consumers that there is governmental oversight, which could enhance consumer protection.

Recommendation 6 – Amend the requirement for the jurisprudence examination to be a mail-in examination, and allow the Division to establish a computer-based version of the examination.

All mental health professionals are required to pass a one-time, written, mail-in jurisprudence examination, consisting of 42 multiple-choice questions prior to obtaining licensure, certification or registration. The purpose of the jurisprudence examination is to test a candidate's knowledge of the Statute as well as applicable rules.

The jurisprudence examination can be mailed to a candidate or he or she can download it from the Division website.

Once a candidate completes the jurisprudence examination, he or she is required to return it the Division, where Division staff grades it. According to Division staff, the time allocated to grade the jurisprudence examination is minimal (approximately five minutes per examination). However, in fiscal year 08-09, there were 1,941 jurisprudence examinations submitted, which, assuming the grading of the examination is approximately five minutes, equates to 161 staff hours allocated annually to grading the jurisprudence examination.

In order to increase efficiency related to the jurisprudence examination, the General Assembly should amend the requirement that the jurisprudence examination be a mail-in examination, and instead, allow the Division to create a computer-based jurisprudence examination. Doing so would serve to increase efficiency in the administration and grading of the examination by Division staff, as well as enable a candidate the convenience of taking the examination via a computer.

However, if a candidate does not possess a computer or does not have access to a computer, Division staff should still provide accommodations for the written, mail-in jurisprudence examination.

Recommendation 7 – Amend the prohibited activities in section 12-43-222(1), C.R.S., to include failure to respond to a complaint.

The Statute is silent on whether the boards and the Director of the Division have the authority to formally discipline mental health professionals for failing to respond to complaints.

When complaints are filed against mental health professionals, the boards or the Director of the Division send a letter outlining the nature of the complaint and require mental health professionals to respond within 30 days of receiving the letter. Although a response is required, there is no formal authority delineated in the Statute enabling the boards or the Director of the Division to formally discipline mental health professionals for failing to respond to a complaint within 30 days.

A response to a complaint is important because it could provide valuable information to the boards or the Director of the Division that could assist them in determining the merits of a complaint and whether a violation of the Statute or applicable rules has occurred.

Failing to respond to a complaint may increase unnecessary expenditures related to an investigation (assumed by the Office of Investigations within the Division) in an attempt to determine whether a violation occurred. For example, the State Grievance Board could receive a complaint against an unlicensed psychotherapist concerning an inappropriate relationship with a former client. The unlicensed psychotherapist could respond to the State Grievance Board that he or she was out of the country at the time that the alleged incident occurred. As a result, the State Grievance Board could dismiss the complaint without further investigation.

Conversely, in the hypothetical scenario highlighted above, if the unlicensed psychotherapist failed to respond to the complaint, an investigation, presumably, would have ensued only to discover the same information.

In order to create an avenue for the boards and the Director of the Division to impose discipline on mental health professionals who do not formally respond to complaints filed against them, the General Assembly should include failure to respond to a complaint as a prohibited activity in section 12-43-222(1), C.R.S.

Recommendation 8 – Remove the term "willful" from the prohibited activities section of the Statute.

Section 12-43-222(1)(t)(I), C.R.S., states that it is a prohibited activity for a mental health professional to engage in the willful and repeated ordering or performance, without clinical justification, of demonstrably unnecessary laboratory tests or studies.

The term "willful" implies that an act was intentional. Regulatory oversight focuses on whether a regulated professional has violated the Statute or rules, which could harm consumers, not whether the violation was intentional. As such, the boards and the Director of the Division should be able to pursue formal discipline on mental health professionals if a violation of the Statute or rules has occurred, not whether the violation was intentional or "willful."

In order to clarify the prohibited activities in the Statute, the General Assembly should remove the term “willful” from the prohibited activities in section 12-43-222(1)(t)(I), C.R.S.

Recommendation 9 – Restate the grounds for discipline regarding alcohol and drug abuse.

Section 12-43-222(1), C.R.S., highlights the prohibited activities for mental health practitioners. More specifically, section 12-43-222(1)(e), C.R.S., states that it is a violation of the Statute if a mental health practitioner is habitually intemperate or excessively uses any habit-forming drug or controlled substance including alcohol.

Although the Colorado Court of Appeals has ruled that the term “intemperance” is not unconstitutionally vague, it remains a vague term for the average lay person.

A more easily understandable standard, and, indeed, more typical of practice acts, would be habitual or excessive use or abuse of alcohol or controlled substances.

Therefore, in order to make the Statute, and subsequently the prohibited activities, more understandable to those who are expected to comply with them, the General Assembly should revise the list of prohibited activities to include the habitual or excessive use or abuse of alcohol or controlled substances.

Recommendation 10 – Repeal the definition of psychotherapy in section 12-43-701(3), C.R.S.

Currently, there are two different definitions of psychotherapy in the Statute. Section 12-43-201(9), C.R.S., which has general applicability, defines psychotherapy as follows:

> "Psychotherapy" means the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention which takes place on a regular basis, over a period of time, *or in the cases of testing, assessment, and brief psychotherapy, it can be a single intervention.* It is the intent of the General Assembly that the definition of psychotherapy as used in this part [2] be interpreted in its narrowest sense to regulate only those persons who clearly fall within the definition set forth in this subsection {emphasis added}.

Additionally, Part 7, which applies solely to unlicensed psychotherapists, defines psychotherapy in the following manner:[164]

> "Psychotherapy" means the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors which interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention which takes place on a regular basis, over a period of time. It is the intent of the General Assembly that the definition of psychotherapy as used in this part [7] be interpreted in its narrowest sense to regulate only those persons who clearly fall within the definition set forth in this subsection.

Noticeably absent from the definition of psychotherapy in section 12-43-701(3), C.R.S., is the phrase "in the cases of testing, assessment, and brief psychotherapy, it can be a single intervention," which is present in section 12-43-201(9), C.R.S. The definition in section 12-43-201(9), C.R.S., is broader and will cover the aforementioned phrase that is currently absent from the definition in 12-43-701(3), C.R.S.

The absence of the reference mentioned above could create confusion for the State Grievance Board when it attempts to determine whether a mental health professional potentially violated the Statute or rules while conducting psychotherapy. In fact, there was a specific instance regarding the State Grievance Board's difficulty in determining whether a mental health practitioner was actually practicing psychotherapy.

It is unclear why the two definitions in the Statute are different. However, in order to create consistency within the Statute and ensure that all mental health professionals are adhering to the same definition of psychotherapy, and all of the mental health boards use the same definition to assess whether mental health professionals are conducting psychotherapy, the General Assembly should repeal the definition in section 12-43-701(3), C.R.S. Importantly, repealing the definition in section 12-43-701(3), C.R.S., would not preclude unlicensed psychotherapists from practicing psychotherapy. Instead, repealing the definition would enable all boards to apply a consistent definition of psychotherapy, which is clearly defined in section 12-43-201(9), C.R.S.

[164] § 12-43-701(3), C.R.S.

Recommendation 11 – Amend the prohibited activities in section 12-43-222(1)(a), C.R.S., to clarify that the boards and the Director of the Division have the authority to impose discipline on mental health professionals who are convicted of a felony, regardless of whether the felony is related to the ability to practice.

Currently, section 12-43-222(1)(a), C.R.S., states that mental health professionals have violated the Statute if they have been convicted of a felony or have pleaded guilty or *nolo contendere* to a felony if the felony is related to the ability to practice.

In order to ensure that consumer protection is not compromised, the boards and the Director of the Division should have the authority to impose discipline on mental health professionals if they are convicted of felonies or plead *nolo contendere*, regardless of whether the ability to practice is an issue.

The boards and the Director of the Division should be authorized to determine whether a mental health professional, who has been convicted of a felony, is able to continue to practice as a mental health professional. For example, if a mental health professional is convicted of a property crime, the boards or the Director of the Division should be able to review the conviction and determine whether the person should practice as a mental health professional.

As a result, the General Assembly should amend the prohibited activities in section 12-43-222(1)(a), C.R.S., by removing the phrase "related to the ability to practice."

Recommendation 12 – Add language to the Statute authorizing the boards and the Director of the Division to impose a fine on a mental health professional.

Currently, the boards and the Director of the Division do not have the authority to impose a fine on a mental health professional. The Colorado State Board of Medical Examiners, the Board of Chiropractic Examiners, and the Board of Nursing, are among the healthcare boards that have the authority to impose fines for violations of their respective practice acts.

In order to effectively and efficiently regulate mental health professionals, the boards and the Director of the Division should be authorized to impose a fine on a mental health professional for a violation of the Statute.

Allowing the boards and the Director of the Division to impose fines would improve the boards' and the Director of the Division's ability to regulate mental health professionals by adding another instrument that they may use when other means of discipline including suspension, revocation, or probation are not appropriate. A violation that is administrative rather than below the standard of care would be an appropriate use for a fine. An example of this could be a mental health professional who fails to renew his or her license within the grace period and practices for a short time without a license.

The General Assembly should authorize the boards and the Director of the Division to impose a fine only for violations of the Statute that are administrative in nature and do not rise to the level of standard of practice violations. A fine should be no more than $5,000 per violation, and all collected fines should be credited to the General Fund.

Fining authority is an important enforcement tool for regulators. However, it is also important that the use of fines be consistent with the rationale laid out in this recommendation. Therefore, the General Assembly should require the boards and the Director of the Division to create a fining schedule that reflects fines in lesser amounts for first violations with increased amounts for subsequent violations. Predictable, uniform discipline can provide both a desired deterrent to Statute violations and predictability in the administration of justice.

Recommendation 13 – Establish that a mental health professional's failure to properly address his or her own physical or mental condition is grounds for discipline, and authorize the boards and the Director of the Division to enter into confidential agreements with mental health professionals to address their respective conditions.

One of the boards' and the Director of the Division's critical responsibilities is to take disciplinary action against mental health professionals who pose a threat to the clients under their care. The boards and the Director of the Division may take disciplinary action against any mental health professional who has:[165]

> A physical or mental condition or disability which renders such person unable to treat clients with reasonable skill and safety or which may endanger the health or safety of persons under the person's care.

Having such a condition may affect a candidate's ability to be regulated as a mental health professional. All mental health applications for initial regulation ask:

> Within the last five years, have you been diagnosed or treated for any physical or mental condition or disability which rendered you unable to treat patients with reasonable skill and safety or which may endanger the health or safety of persons under your care?

Further, at each two-year renewal, mental health professionals must attest that they are in compliance with the Statute, so in effect they are attesting that they do not have such a physical or mental condition. If they have acquired such a condition since the last renewal, they must disclose such to the boards or the Director of the Division.

[165] § 12-43-222(1)(f), C.R.S.

The intent of these provisions is clear: to protect the public from unsafe practitioners. But in many cases, mental health professionals with such conditions could continue to practice safely, under certain defined circumstances. For example, a psychologist with a spinal injury could continue to diagnose, evaluate patients and treat clients. A mental health professional with bipolar disorder might be able to treat patients safely provided he or she takes the proper medication.

Under the current system, mental health professionals with such conditions may enter into an agreement or practice limitation with the boards or the Director of the Division in order to continue practicing via probationary status, which is highlighted as follows:[166]

> While on probationary status, which allows a mental health professional to continue to practice, the boards or the Director of the Division may impose upon the mental health professional such conditions as the boards or the Director of the Division deems appropriate to ensure that the mental health professional is physically, mentally, and otherwise qualified to practice in accordance with generally accepted professional standards.

Such conditions may include requiring a mental health professional to undergo a physical or mental examination; to complete therapy, training, or education; or to enter into a period of supervised practice. The boards and the Director of the Division may also restrict the scope of the mental health professional's practice to ensure that the mental health professional does not practice beyond the limits of his or her capabilities.[167]

These orders provide a mechanism for these mental health professionals to continue to practice, but are troubling philosophically. The orders are considered discipline, and become part of the mental health professional's permanent record. Being injured in a car accident, suffering a stroke, or receiving a diagnosis of bipolar disorder is fundamentally different from committing an act that constitutes grounds for discipline under the Statute. While these conditions might temporarily or permanently affect a mental health professional's ability to treat patients, it seems unjust for a mental health professional who successfully manages bipolar disorder with medication to be included in the same category as a mental health professional who has stolen a car or committed insurance fraud. Not only does this stigmatize the person with the condition, it can affect his or her ability to participate in provider networks and can increase insurance rates.

[166] §§ 12-43-224(3)(c) and 12-43-83(2)(d), C.R.S.
[167] §§ 12-43-224(3)(c)(IV) and 12-43-803(2)(d), C.R.S.

Essentially, current law compels the boards and the Director of the Division to discipline mental health professionals simply for having a physical or mental condition that might affect their practice.

During the 2010 legislative session, the General Assembly passed Senate Bill 10-1260 (SB 1260), which contains a provision allowing the Medical Board to enter into confidential agreements with physicians with physical or mental conditions that might affect their practice. These agreements establish the measures that physicians must adhere to in order to practice safely.

The legislation made another important change: previously, a physician would be subject to discipline simply for having a physical or mental condition that might affect his or her practice. Under SB 1260, the Medical Board may discipline a physician if he or she fails to:[168]

> Notify the board...of a physical or mental illness or condition that impacts the licensee's ability to perform a medical service with reasonable skill and with safety to patients, failing to act within the limitations created by a physical or mental illness or condition that renders the licensee unable to perform a service with reasonable skill and with safety to the patient, or failing to comply with the limitations agreed to under a confidential agreement (.)

Simply having a physical or mental condition or illness is no longer a reason to impose discipline. As long as the physician notifies the Medical Board of his or her condition or illness, enters into a confidential agreement outlining the measures he or she must take to assure safe practice, and adheres to the agreement, there is no violation of the Medical Practice Act. Consequently, these agreements do not constitute discipline and do not appear to be reportable to the National Practitioner Data Bank. If a physician fails to meet the requirements or stay within the limitations enumerated in the agreement, the Medical Board may then take disciplinary action. This assures adequate public protection.

The General Assembly should enact a similar provision for mental health professionals by granting the boards and the Director of the Division the authority to enter into confidential agreements with mental health professionals. To assure public protection, the General Assembly should also establish failure to properly address the mental health professional's own physical or mental condition as grounds for discipline.

[168] Senate Bill 10-1260, § 29.

Recommendation 14 – Make technical changes to the Statute.

During the course of this sunset review, the boards, the Director of the Division, Division staff and researchers found several places in the Statute that need to be updated and clarified to reflect current practices, conventions, and technology. While recommendations of this nature generally do not rise to the level of protecting the health, safety, and welfare of the public, unambiguous laws make for more efficient implementation. Unfortunately, all of the statutes pertaining to mental health professionals are commonly only examined by the General Assembly during a sunset review.

The following list of such technical changes is provided as a means of illustrating examples only. It is not exhaustive of the types of technical changes that should be made:

- Make the Statute gender neutral.
- Section 12-43-203(3.5), C.R.S., which references the approval of applications, only references Parts 3, 4, 5, 6 and 7 of the Statute. Section 12-43-203(3.5), C.R.S., should include Part 8 of the Statute, which highlights the statutory requirements for addiction counselors.
- Section 12-43-205(1)(c), C.R.S., should include the words, “mailing address.”

Therefore, the General Assembly should make technical changes to the Statute.

Appendix A – Licensing Information

Psychologist Licensing Information

Licensing Summary – All License Types

Number of Licenses					
Fiscal Year	**Exam**	**Endorsement**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	63	51	1,933	5	2,235
05-06	49	42	138	36	2,222
06-07	66	57	1,806	12	2,352
07-08	67	34	217	50	2,326
08-09	71	50	0	20	2,462

Licensed Psychologists

Number of Licenses					
Fiscal Year	**Exam**	**Endorsement**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	63	51	1,933	5	2,235
05-06	49	42	138	36	2,222
06-07	64	57	1,805	12	2,351
07-08	64	34	215	50	2,323
08-09	70	50	0	20	2,460

Provisional – Licensed Psychologists

Number of Licenses				
Fiscal Year	**Original**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	N/A	N/A	N/A	N/A
05-06	N/A	N/A	N/A	N/A
06-07	2	1	0	1
07-08	3	2	0	3
08-09	1	0	0	2

Psychologist Candidate Temporary Permit

Number of Licenses				
Fiscal Year	**Original**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	45	N/A	N/A	N/A
05-06	78	N/A	N/A	N/A
06-07	77	N/A	N/A	N/A
07-08	54	N/A	N/A	N/A
08-09	112	N/A	N/A	N/A

These psychologist candidate temporary permits are not included in the licensing summary.

Social Worker Licensing Information

Licensing Summary – All license Types

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	162	73	3,096	25	3,681
05-06	196	80	236	82	3,760
06-07	256	97	2,916	28	4,099
07-08	288	102	406	115	4,074
08-09	283	82	0	51	4,421

Licensed Clinical Social Worker

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	133	54	2,957	24	3,460
05-06	143	64	219	75	3,518
06-07	155	80	2,748	27	3,781
07-08	169	65	370	104	3,727
08-09	169	59	0	45	3,998

Licensed Social Worker

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	29	19	139	1	221
05-06	53	16	17	7	235
06-07	52	17	155	1	271
07-08	91	37	27	9	298
08-09	97	23	0	6	366

Provisional – Social Worker

Number of Licenses				
Fiscal Year	Original	Renewal	Reinstatement	TOTAL
04-05	0	0	0	0
05-06	7	0	0	7
06-07	49	13	0	47
07-08	28	9	2	49
08-09	17	0	0	57

Marriage and Family Therapist Licensing Information

Licensing Summary – All license Types

Number of Licenses					
Fiscal Year	**Exam**	**Endorsement**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	16	16	427	2	566
05-06	23	20	58	13	556
06-07	22	25	416	6	607
07-08	22	27	85	12	600
08-09	24	21	0	10	651

Marriage & Family Therapists

Number of Licenses					
Fiscal Year	**Exam**	**Endorsement**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	16	16	427	2	566
05-06	23	20	58	13	556
06-07	13	25	416	6	600
07-08	20	27	80	12	596
08-09	20	21	0	10	646

Provisional – Marriage & Family Therapists

Number of Licenses				
Fiscal Year	**Original**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	N/A	N/A	N/A	N/A
05-06	N/A	N/A	N/A	N/A
06-07	9	3	0	7
07-08	2	5	0	4
08-09	4	0	0	5

Professional Counselor Licensing Information

License Summary – All License Types

Number of Licenses					
Fiscal Year	**Exam**	**Endorsement**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	225	52	2830	25	3,471
05-06	269	56	278	82	3,598
06-07	343	62	2822	29	4,003
07-08	272	58	433	118	4,029
08-09	321	60	0	42	4,424

Licensed Professional Counselor

Number of Licenses					
Fiscal Year	**Exam**	**Endorsement**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	225	52	2,830	25	3,471
05-06	250	56	278	82	3,579
06-07	254	62	2,779	29	3,921
07-08	233	58	433	115	3,949
08-09	283	60	0	42	4,331

Provisional – Licensed Professional Counselor

Number of Licenses				
Fiscal Year	**Original**	**Renewal**	**Reinstatement**	**TOTAL**
04-05	N/A	N/A	N/A	N/A
05-06	19	0	0	19
06-07	89	43	0	82
07-08	39	0	3	80
08-09	38	0	0	93

Unlicensed Psychotherapist Licensing Information

Number of Licenses				
Fiscal Year	**Original**	**Reinstatement**	**Renewal**	**TOTAL***
04-05	400	30	934	2,050
05-06	520	79	181	1,749
06-07	480	52	897	2,100
07-08	662	116	238	2,059
08-09	800	59	0	2,706

Addiction Counselor Licensing Information

Licensing Summary – All License Types

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	332	6	2,035	13	2,712
05-06	323	9	239	64	2,699
06-07	347	12	1,752	12	2,913
07-08	382	14	389	69	2,815
08-09	356	11	0	17	3,080

Certified Addiction Counselor I

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	69	0	107	0	213
05-06	71	0	129	4	191
06-07	73	1	72	2	211
07-08	79	1	105	8	176
08-09	84	1	0	2	213

Certified Addiction Counselor II

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	114	1	468	4	705
05-06	126	3	543	24	684
06-07	140	7	370	3	750
07-08	166	3	529	22	719
08-09	172	1	0	3	840

Certified Addiction Counselor III

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	130	5	1,358	9	1,678
05-06	113	5	1,537	34	1,695
06-07	120	4	1,200	7	1,809
07-08	125	9	1,560	39	1,772
08-09	90	7	0	11	1,866

Licensed Addiction Counselors

Number of Licenses					
Fiscal Year	Exam	Endorsement	Renewal	Reinstatement	TOTAL
04-05	19	0	103	0	116
05-06	13	1	110	2	129
06-07	14	0	110	0	143
07-08	12	1	129	0	148
08-09	10	2	0	1	161

The Division changed the renewal expiration date for all mental health professions from June 30 to August 31 in 2009; therefore, there were no renewals in fiscal year 08-09.

Appendix B – Examination Information

Psychologists

Fiscal Year	Number of Written Examinations Given	Pass Rate (%)
04-05	53	77.36
05-06	61	50
06-07	88	62
07-08	79	64
08-09	101	78

Social Workers

Fiscal Year	Number of Written Examinations Given	Pass Rate (%)
04-05	200	72.5
05-06	257	73.9
06-07	291	72.2
07-08	306	70.3
08-09	311	73.3

Marriage and Family Therapists

Fiscal Year	Number of Written Examinations Given	Pass Rate (%)
04-05	32	47
05-06	24	67
06-07	26	73
07-08	25	56
08-09	42	52

Professional Counselors

Fiscal Year	Number of Written Examinations Given	Pass Rate (%)
04-05	235	91
05-06	138	92
06-07	215	86
07-08	223	91
08-09	203	87

Unlicensed Psychotherapists

Not Applicable

Addiction Counselors

Fiscal Year	Number of NCAC I Written Examinations Given	Pass Rate (%)
04-05	2	100
05-06	0	N/A
06-07	1	100
07-08	0	N/A
08-09	0	N/A

Fiscal Year	Number of NCAC II Written Examinations Given	Pass Rate (%)
04-05	4	50
05-06	3	100
06-07	1	0
07-08	0	N/A
08-09	16	100

Fiscal Year	Number of MAC Written Examinations Given	Pass Rate (%)
04-05	4	75
05-06	15	67
06-07	16	69
07-08	11	64
08-09	23	83

Appendix C – Complaint Information

Psychologists

Nature of Complaints	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Practicing w/o a License	0	0	0	0	1
Standard of Practice	56	52	41	62	44
Scope of Practice	1	1	0	0	4
Sexual Misconduct	0	1	0	4	2
Substance Abuse	1	0	2	0	0
Felony Conviction	0	1	0	0	0
Other	24	4	19	8	1
TOTAL	**82**	**59**	**62**	**74**	**52**

Social Workers

Nature of Complaints	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Practicing w/o a License	0	1	0	0	0
Standard of Practice	43	67	37	61	43
Scope of Practice	4	1	2	1	4
Sexual Misconduct	1	0	1	3	1
Substance Abuse	0	1	0	2	2
Felony Conviction	0	1	0	1	0
Other	10	6	46	27	2
TOTAL	**58**	**77**	**86**	**95**	**52**

Marriage and Family Therapists

Nature of Complaints	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Standard of Practice	10	15	9	13	8
Scope of Practice	0	0	1	1	0
Sexual Misconduct	1	0	0	0	0
Other	2	4	2	5	3
TOTAL	**13**	**19**	**12**	**19**	**11**

Professional Counselors

Nature of Complaints	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Practicing w/o a License	0	0	0	2	1
Standard of Practice	51	63	46	72	56
Scope of Practice	3	1	2	1	7
Sexual Misconduct	2	1	0	1	1
Substance Abuse	1	1	1	1	0
Other	9	18	14	24	2
TOTAL	**66**	**84**	**63**	**101**	**67**

Unlicensed Psychotherapists

Nature of Complaints	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Practicing w/o a License	1	46	28	33	25
Standard of Practice	18	61	49	46	48
Scope of Practice	2	2	1	1	4
Sexual Misconduct	1	0	2	1	0
Substance Abuse	0	2	0	1	3
Felony Conviction	0	0	1	0	0
Other	46	21	0	5	4
TOTAL	**68**	**132**	**81**	**87**	**84**

Addiction Counselors

Nature of Complaints	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Standard of Practice	44	82	33	61	75
Scope of Practice	6	4	8	4	11
Sexual Misconduct	2	2	3	4	5
Substance Abuse	5	3	1	4	9
Felony Conviction	0	3	3	4	8
Other	0	3	0	7	0
TOTAL	**57**	**97**	**48**	**84**	**108**

Appendix D – Disciplinary Action Information

Psychologists

Type of Action	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Revocation / Surrender / Voluntary Relinquishment	2	0	2	0	0
Suspension	0	1	0	0	0
Probation / Practice Limitation	3	2	4	2	0
Letter of Admonition	5	5	1	3	0
Other	0	1	0	0	0
TOTAL DISCIPLINARY ACTIONS	**10**	**9**	**7**	**5**	**0**
Dismiss	39	56	37	58	16
Letter of Concern	7	25	8	24	7
TOTAL DISMISSALS	**46**	**81**	**45**	**82**	**23**

Social Workers

Type of Action	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Revocation / Surrender / Voluntary Relinquishment	1	2	0	0	0
Suspension	0	0	0	0	2
Probation / Practice Limitation	0	4	3	2	2
Letter of Admonition	1	5	4	4	3
Other	0	1	0	1	0
TOTAL DISCIPLINARY ACTIONS	**2**	**12**	**7**	**7**	**7**
Dismiss	42	75	33	67	40
Letter of Concern	5	29	12	49	8
TOTAL DISMISSALS	**47**	**104**	**45**	**116**	**48**

Marriage and Family Therapists

Type of Action	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Revocation / Surrender / Voluntary Relinquishment	0	0	0	0	1
Suspension	0	1	0	0	3
Probation / Practice Limitation	2	1	2	0	3
Other	0	1	0	0	0
TOTAL DISCIPLINARY ACTIONS	**2**	**3**	**2**	**0**	**7**
Dismiss	12	13	12	16	48
Letter of Concern	5	4	4	10	1
TOTAL DISMISSALS	**17**	**17**	**16**	**26**	**49**

Professional Counselors

Type of Action	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Revocation / Surrender / Voluntary Relinquishment	3	2	1	0	2
Suspension	1	1	2	1	2
Probation / Practice Limitation	1	2	4	9	5
Other	0	1	1	3	1
TOTAL DISCIPLINARY ACTIONS	**5**	**6**	**8**	**13**	**10**
Dismiss	34	68	55	88	49
Letter of Concern	10	37	10	45	11
TOTAL DISMISSALS	**44**	**105**	**65**	**133**	**60**

Unlicensed Psychotherapists

Type of Action	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Revocation / Surrender / Voluntary Relinquishment	10	0	5	0	1
Suspension	0	0	0	0	4
Probation / Practice Limitation	9	6	3	5	2
Letter of Admonition	1	4	14	7	4
Other	1	10	3	0	0
TOTAL DISCIPLINARY ACTIONS	**21**	**20**	**25**	**12**	**11**
Dismiss	56	69	32	55	24
Letter of Concern	8	37	16	33	12
TOTAL DISMISSALS	**64**	**106**	**48**	**88**	**36**

Addiction Counselors

Type of Action	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
Revocation / Surrender / Voluntary Relinquishment	5	6	7	0	5
Suspension	5	2	2	1	2
Probation / Practice Limitation	6	0	6	14	3
Letter of Admonition	7	10	6	6	4
Other	0	2	1	1	7
TOTAL DISCIPLINARY ACTIONS	**23**	**20**	**22**	**22**	**21**
Dismiss	30	73	30	49	38
Letter of Concern	7	39	10	16	8
TOTAL DISMISSALS	**37**	**112**	**40**	**65**	**46**