

Assignment 5.1 Know the Law - Florida

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### Assignment 5.1: Know the Law – Florida

As a new counselor, the laws regarding licensure and the practice of counseling can seem quite overwhelming. Each state has its own rules and policies and it is up to the individual counselor to learn the law in the state one wishes to practice. All 50 states have passed licensure laws and most state requirements closely align with the standards set by Council for Accreditation of Counseling and Related Educational Programs (CACREP), however, each state has its own variations. In addition, each state may have slightly different rules regarding record keeping, involuntary commitment, and the duty to warn. Counselors have both an ethical and legal obligation to learn and abide by the laws and rules set forth by the state legislatures where they intend to practice.

#### **Licensure Requirements**

In the state of Florida, in order to become a licensed counselor, one must apply to the Florida Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling. According to FLA. STAT. § 491.005 (4) (2017) applicants must have at a master's degree from a CACREP accredited program that consists of at least 60 semester hours that includes a human sexuality and addictions class. For programs that are not CACREP accredited, the university must be regionally accredited and the program must be at least 60 semester hours and provide courses in the following 11 content areas: counseling theories and practice, human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; counseling in community settings; substance abuse, and ethical issues (FLA. STAT. § 491.005 (4) (2017). In addition,

graduates from programs that are not accredited are required to complete at least 1,000 hours of university-sponsored practicum/internship.

In addition to the degree, applicants must also complete at least two years of post-graduate clinical experience under the supervision of a licensed mental health counselor or equivalent. Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling also requires that the applicant pay the application fee, pass the national clinical mental health counseling examination (NCMHCE) through the National Board for Certified Counselors (NBCC) and complete an eight-hour rules and law course. Within six months of licensure, applicants must also complete a three-hour HIV course, and a two-hour domestic violence course (Florida Department of Health, 2017).

### **Reporting Abuse or Neglect**

FLA. STAT. § 39.201 (2017) states that *any* person who has knowledge or cause to suspect that a child or a vulnerable adult (FLA. STAT. § 415.1034 (2017) is being abused, neglected or abandoned should report the information however, certain professionals, including mental health professionals, are required to do so *and* to provide their names when making a report. A child is defined as a minor under the age of 18 and a vulnerable adult is defined as “a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging” (FLA. STAT. § 415.102 (28) (2017)).

The Department of Children and Families (DCF) maintains a central abuse hotline where reports can be made by phone, fax, or online submission (FLA. STAT. § 415.103). In order to report, an individual can call 800-962-2873 (or TTY 800-955-8771), and then select the proper option

(child versus vulnerable adult). Reports can also be faxed to 800-914-0004 using the Florida Abuse Hotline's reporting form. Additionally, reporting is also available online by visiting <http://www.myflfamilies.com/> and following the instructions for how to report online, however, this option should not be used in situations in which immediate action or attention is needed.

When making a report, the following information is required: the victim's name, age, race, sex, physical description, and location; the name, address, and phone numbers of the victim's family members; the name, address, and phone number of the alleged perpetrator; the name, address, and phone number of the person making the report; a description of the alleged abuse, neglect, or exploitation; and a description of any additional action taken by the reporter or other useful information for the case (DCF, 2017).

### **Involuntary Commitment**

In the event that an individual is found to be unable to care for oneself, be a danger oneself or to others, that person may be involuntarily committed to a receiving facility under Florida law (FLA. STAT. § 394.463 (2017)). An ex parte order may be filed with the court requesting that the individual be taken to the nearest receiving facility based on sworn testimony or a law enforcement agent may decide, based on the individual's behaviors, that the individual meets the requirements for commitment and deliver the individual to the nearest receiving facility. A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may also execute a certificate stating that the individual has been examined within the previous 48 hours and meets the criteria for commitment and a law enforcement agent will collect the individual and deliver them to the nearest facility (FLA. STAT. § 394.463 (2017)).

The order for involuntary commitment is for up to 72 hours, during which time the individual must be evaluated by a physician or a psychiatrist. For minors, the examination must occur within 12 hours of the individual's arrival at the facility. Once the holding period has expired, the individual must be released, or based on the reports of the mental health professionals who have examined the individual, the court may find that the person still poses a threat to themselves or to others and may order the continuation of the involuntary commitment. During the individual's commitment, mental health care professionals must provide the least restrictive treatment possible. During the involuntary commitment, individuals maintain their rights to dignity, quality services, nondiscriminatory services, to communicate, and to confidentiality. Individuals have the right to petition the court and challenge the involuntary commitment and they are also granted the right to counsel.

### **Record Keeping Requirements**

Counselors, along with marriage and family therapists and social workers, must maintain confidential records for all clients under one's care (Chapter 64B4-9m FAC). Psychotherapy notes must include client name, address, phone number, dates of sessions, treatment plans, results and progress achieved, diagnosis (if applicable), financial transactions, consent documentation, release of information documentation, and any information related to information being released about the client (Chapter 64B4-9m FAC). Records must be kept for seven years after the final contact with a client.

If a mental health professional closes one's practice or becomes unavailable for another reason (such as relocation), notification must be made to all current clients. A notice must be published in the community newspaper at least once per week for four consecutive weeks, after which records must be maintained confidentially for two years (FLA. STAT. § 456.057. (2017)).



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