**Section 1375.225 Unprofessional Conduct**

The Division may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based upon its finding of unethical, unauthorized, or unprofessional conduct within the meaning of Section 80 of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

a) Counseling Relationships

1) Practicing, condoning, facilitating, collaborating with or engaging in discrimination based on age, culture, disability, ethnicity, race race, , religion/spiritually, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis prescribed by law. Counselors shall not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

2) Engaging in any action that violates or diminishes the civil or legal rights of clients.

3) Engaging in the sexual exploitation of clients, client's romantic partners, or client's family members, students or supervisees.

4) Engaging in or condoning sexual harassment, including, but not limited to, deliberate or repeated comments, gestures or physical contacts of a sexual nature, that occurs in connection with professional activities or roles.

5) Bringing personal or professional biases into the counseling relationship. Through an awareness of the impact of stereotyping and discrimination (i.e., biases based on age, disability, ethnicity, gender, religion, or sexual preference), counselors guard the individual rights and personal dignity of the client in the counseling relationship.

6) Engaging in any type of sexual or romantic intimacies with clients, client's romantic partners, or client's family members. Counselors shall not provide counseling services to persons with whom they have had a sexual relationship, including the person's romantic partners, or their family members.

7) Engaging in sexual intimacies with former clients, client's romantic partners, or client's family members prior to five years after termination of the counselor/client relationship.

8) Engaging in any nonprofessional relationships with clients, former clients, client's romantic partners, or client's family members should be avoided, except when the interaction is potentially beneficial to the client. All potentially beneficial relationships must be documented in case notes, and conducted with full client consent. When unintentional harm occurs to the client, or former client, or to an individual significantly involved with the client or former client, due to the nonprofessional interaction, the counselor must show evidence of an attempt to remedy that harm.

9) Failing to offer all pertinent facts regarding services rendered to the client prior to administration of professional services. The purpose of informed consent is to insure a client's complete access to information pertaining to professional services. Examples include, but are not limited to, the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services; the counselor's qualifications, credentials and relevant experience; continuation of services upon the incapacitiation or death of a counselor. Counselors must take steps to ensure that clients understand the implications of diagnosis, the intended use of assessments and reports, billing arrangements, length of treatment and utilization of consultants. The client's signature indicating receipt of pertinent information is strongly encouraged.

b) Confidentiality

1) Failing to inform clients at the onset of the counseling relationship of the limits of confidentiality. These limitations include, but are not limited to: limitations mandated by the law, requirements to protect clients or identified others from serious and foreseeable harm, or when the counselor is a defendant in a civil, criminal or disciplinary action arising from the counseling.

2) Revealing facts, data or information relating to a client or examinee, except as allowed under Section 75 of the Act or under the Mental Health and Developmental Disabilities Confidentiality Act or any other federal or State laws pertaining to confidentiality.

3) Failing to take appropriate steps to protect the privacy of a client and avoid unnecessary disclosures of confidential information. The right to privacy belongs to clients and may be waived. A written waiver shall be signed by the client and the information revealed shall be in accordance with the terms of the waiver.

c) Scope of Practice/Professional Responsibility

1) Performing, or pretending to be able to perform, professional services beyond one's scope of practice and one's competency, as defined by education, training, supervised experience, State and national professional credentials, and appropriate professional experience.

2) Abandoning or neglecting clients and/or failing to refer and/or make appropriate arrangements for the continuation of treatment, when necessary, during interruptions, such as vacations or illness, and following termination.

3) Failing to use techniques/procedures/modalities that are grounded in professionally accepted theory and/or have an empirical or scientific foundation. Counselors who do not use these tools, must define the techniques/procedures as "unproven" or "developing" and explain the potential risk and ethical considerations of using the techniques/procedures and take steps to protect clients from possible harm.

4) Failing to establish and maintain client records and case notes, including failing to inform clients of issues related to the difficulty of maintaining the confidentiality of electronically transmitted communication. Records must be maintained for at least 7 years. In the case of a minor, records must be maintained 7 years after the minor turns 18.

5) Failing to inform clients of the benefits and limitations of using information technology applications in the counseling process and in business/billing procedures. These technologies include but are not limited to computer hardware and software, telephone, the internet, online assessment instruments, and other communication devices.

6) Advertising shall not be deceptive, misleading or false. Counselors should claim or imply only professional credentials possessed and are responsible for correcting any misrepresentations of their credentials by others. Professional credentials include highest relevant degrees, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in professional counseling.

7) Submission of fraudulent claims for services to any person or entity including, but not limited to, health insurance companies or health service plans or third party payors.

8) Knowingly offering or providing services to a client when the counselor's ability to practice is impaired. Failing to seek assistance for problems that reach the level of professional impairment, and, if necessary, limiting, suspending or terminating his or her professional responsibilities until such time it is determined that it is safe to resume work. Causes of impairment may include, but are not limited to, the abuse of mood altering chemicals and physical or mental problems; offering professional services when the counselor's personal problems or conflicts may harm a client or others.

d) Supervision

1) Permitting a supervisee or intern under his/her supervision or control to perform, or permitting the supervisee or intern to hold himself or herself out as competent to perform, professional services beyond the supervisee's or intern's level of education, training and/or experience.

2) Allowing a supervisee to violate the rights of clients, permitting a supervisee to violate confidentiality standards or client privacy, or failing to provide clients with professional disclosure information and inform them of how the supervision process influences the limits of confidentiality, including who will have access to records of the counseling relationship and how these records will be used.

3) Participating in any form of sexual or romantic contact with supervisees. Nonprofessional relationships with supervisees that might impair the supervisor's objectivity and professional judgment should be avoided and/or the supervisory relationship terminated.

e) Evaluation, Assessment and Interpretation

1) Failing to have appropriate education and training for each specific assessment and recognize the limits of their competence and perform only those functions for which they are prepared. In particular, counselors using technology-assisted test interpretations must be trained in the construct being measured and the specific instrument being used prior to using this technology-based application.

2) Failing to inform prospective research participants or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits.

f) The Division hereby incorporates by reference "The American Counseling Association Code of Ethics and Standards of Practice", April 2005, approved by the American Counseling Association, 5999 Stevenson Avenue, Alexandria, Virginia 22304, with no later amendments or editions.

g) Licensed Professional Counselors and Licensed Clinical Professional Counselors are responsible for professional conduct consistent with every standard, in addition to the ones summarized in this Section, published in the 2005 American Counseling Association Code of Ethics.

(Source: Amended at 35 Ill. Reg. 7586, effective May 13, 2011)