201 KAR 36:005. Definitions for 201 KAR Chapter 36.

RELATES TO: KRS 335.500, 335.535(1)
STATUTORY AUTHORITY: KRS 335.515(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) requires the board to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS 335.500 to 335.599. This administrative regulation establishes the definitions used in 201 KAR Chapter 36.

Section 1. Definitions. (1) "Academic course offered by an accredited postsecondary institution" means:
(a) A professional counseling course designated by a professional counseling title or content; or
(b) An academic course relevant to the practice of professional counseling.
(2) "Approved" means recognized by the Kentucky Board of Licensed Professional Counselors.
(3) "Chairman" means the chairman or vice-chairman of the board.
(4) "Charge" means a specific allegation contained in a formal complaint, as established in 201 KAR 36:050, issued by the board alleging a violation of a specified provision of KRS 335.500 to 335.599 or the administrative regulations promulgated thereunder.
(5) "Client" means:
(a) An individual, family, or group for whom the licensee provides services within the context of the licensee's practice of professional counseling;
(b) A corporate entity or other organization if the licensee provides a service of benefit directly to the corporate entity or organization; or
(c) A legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.
(6) "Complaint" means any written allegation of misconduct by a credentialed individual or other person, which might constitute a violation of KRS 335.500 to 335.599 or the administrative regulations promulgated thereunder.
(7) "Complaint screening committee" means a committee that:
(a) Consists of three (3) persons appointed by the chairman of the board and may include the executive director or another staff member; and
(b) Reviews complaints and investigative reports, opens investigations, participates in informal proceedings to resolve a complaint, or requests a court of competent jurisdiction to take criminal or civil action.
(8) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.
(9) "Distance counseling" means the practice of professional counseling as defined by KRS 335.500(5) between the professional counselor and the patient:
(a) Provided using an electronic communication technology; or
(b) Two (2) way, interactive, simultaneous audio and video.
(10) "Document" means information in any form or format that is relevant to a review or investigation conducted by the board and may include:
(a) Originals, copies, or drafts;
(b) Written documents;
(c) Papers;
(d) Books;
(e) Computer files;

(f) Photographs;
(g) Audio or video recordings;
(h) Correspondence;
(i) Electronic mail; or
(j) Drawings or blueprints.

(11) "Dual relationship" means a social, business, or personal relationship between a licensee and a client that coexists with the professional-client relationship between the licensee and the client.

(12) "Face-to-face" means supervision that is in person where the supervisor and supervisee are physically present in the same room or through interactive, simultaneous video and audio media.

(13) "Formal complaint" means a formal administrative pleading authorized by the board, which sets forth charges against a licensed individual or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B.

(14) "Good moral character" means a licensee or applicant who has not been:

(a) Convicted, in a court of competent jurisdiction, of any crime involving a substantial misrepresentation of any material fact, including any of the following:
1. Bribery or corrupt influences under KRS Chapter 521;
2. Forgery or related offenses under KRS Chapter 516;
3. Business or commercial frauds under KRS Chapter 517;
4. Perjury or related offenses under KRS Chapter 523;
5. Abuse of a public office under KRS Chapter 522; or
6. Miscellaneous crimes affecting businesses, occupations, and professions that have a direct financial or adverse impact on business;

(b) Convicted, in a court of competent jurisdiction, of criminal homicide under KRS Chapter 507 or 507A;

(c) Convicted, in a court of competent jurisdiction, of any felony or misdemeanor involving the following:
1. Sexual offenses under KRS Chapter 510;
2. Pornography under KRS Chapter 531;
3. Theft and related offenses under KRS Chapter 514;
4. Prostitution offenses under KRS Chapter 529; or
5. Family offenses under KRS Chapter 530;

(d) Convicted, in a court of competent jurisdiction, of any felony involving the following:
1. Assault or related offenses under KRS Chapter 508;
2. Kidnapping or related offenses under KRS Chapter 509;
3. Burglary or related offenses under KRS Chapter 511;
4. Criminal damage to property under KRS Chapter 512; or
5. Arson and related offenses under KRS Chapter 513;

(e) Found to have a behavioral or substance abuse problem, which may endanger or impair the health, personal safety, or welfare of a client;

(f) Found to be a delinquent taxpayer as defined by KRS 131.1817(1)(b);

(g) Convicted, in a court of competent jurisdiction, of three (3) or more offenses of driving under the influence or driving while impaired;

(h) Convicted, in a court of competent jurisdiction, of any drug-related felony under KRS Chapter 218A;

(i) Convicted, in a court of competent jurisdiction, of any criminal offense similar to the convictions identified in paragraphs (a) to (h) of this subsection that constitutes a violation of law of the state where the conviction occurred; or

(j) Subject to a fine, disciplinary supervision, probation, revocation, or suspension of a registration, certification, or license issued by the issuing body.

(15) "Individual supervision" means supervision of one (1) or two (2) supervisees with the supervisor.

(16) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(17) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint or an investigator employed by the Attorney General or the board.

(18) "Professional counselor" means a licensed professional clinical counselor as defined by KRS 335.500(3) or licensed professional counselor associate as defined by KRS 335.500(4).

(19) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or a series.

(20) "Relevant" means having content applicable to the practice of professional counseling.

(21) "Respondent" means any person, individual, corporation, business trust, estate, trust partnership, limited liability company, association, organization, joint venture, government or any subdivision, agency or instrumentality thereof, or any other legal or commercial entity who is subject to a charge or formal complaint.

(22) "Scope of practice for professional counseling" means:

(a) The independent practice of counseling encompassing the provision of professional counseling services to individuals, groups, families, couples, and organizations through the application of accepted and established mental health counseling principles, methods, procedures, or ethics;

(b) Counseling to promote mental health wellness, which includes the achievement of social, career, and emotional development across the lifespan, as well as preventing and treating mental disorders and providing crisis intervention;

(c) Counseling that includes psychotherapy, diagnosis, evaluation; administration of assessments, tests and appraisals; referral; or the establishment of counseling plans for the treatment of individuals, couples, groups, and families with emotional, mental, addiction, and physical disorders;

(d) Counseling that encompasses consultation and program evaluation, program administration within and to schools and organizations, and training and supervision of interns, trainees, and pre-licensed professional counselors through accepted and established principles, methods, procedures, and ethics of counselor supervision; or

(e) The functions or practices that are within the professional counselor’s training or education.

(23) "Supervisee" means a licensed professional counselor associate who works with clients under supervision.

(24) "Supervision" means the educational process of utilizing a partnership between a supervisor and a supervisee aimed at enhancing the professional development of the supervisee in providing professional counseling services to meet the requirements of KRS 335.525(1)(e).

(25) "Supervisor" means a member of a mental health or behavioral-services profession listed in 201 KAR 36:065 who controls, oversees, guides, and takes responsibility for the professional clinical counseling practice of a supervisee.

(26) "Supervisor of record" means the person listed on the supervisory agreement and approved by the board in accordance with 201 KAR 36:060, Section 2.

(27) "Testing and assessment services" means an educational, mental health, clinical, and career assessment to gather information regarding the client for a variety of purposes, includ-

ing client decision making, treatment planning, and forensic proceedings. Assessment may include both qualitative and quantitative methodologies. (43 Ky.R. 835, 1529; eff. 3-31-2017.)