

**CHAPTER 491, FLORIDA STATUTES**  
**CLINICAL, COUNSELING, and PSYCHOTHERAPY SERVICES**  
**(Sections 491.014 – 491.016)**  
**2017**

**491.014 Exemptions.—**

(1) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459, or psychologists licensed pursuant to chapter 490, so long as they do not unlawfully hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a professional title protected by this chapter.

(2) No provision of this chapter shall be construed to limit the practice of nursing, school psychology, or psychology, or to prevent qualified members of other professions from doing work of a nature consistent with their training and licensure, so long as they do not hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a title protected by this chapter.

(3) No provision of this chapter shall be construed to limit the performance of activities of a rabbi, priest, minister, or member of the clergy of any religious denomination or sect, or use of the terms "Christian counselor" or "Christian clinical counselor" when the activities are within the scope of the performance of his or her regular or specialized ministerial duties and no compensation is received by him or her, or when such activities are performed, with or without compensation, by a person for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; a developmental disability facility or program; a mental health, alcohol, or drug abuse facility operating under chapter 393, chapter 394, or chapter 397; the statewide child care resource and referral network operating under s. 1002.92; a child-placing or child-caring agency licensed pursuant to chapter 409; a domestic violence center certified pursuant to chapter 39; an accredited academic institution; or a research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist.

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist.

(c) Is a student providing services regulated under this chapter who is pursuing a course of study which leads to a degree in a profession regulated by this chapter, is providing services in a training setting, provided such services and associated activities constitute part of a supervised course of study, and is designated by the title "student intern."

(d) Is not a resident of this state but offers services in this state, provided:

1. Such services are performed for no more than 15 days in any calendar year; and
2. Such nonresident is licensed or certified to practice the services provided by a state or territory of the United States or by a foreign country or province.

(5) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

(6) Nothing in subsections (2)-(4) shall exempt any person from the provisions of s. 491.012(1)(a)-(c), (l), and (m).

(7) Except as stipulated by the board, the exemptions contained in this section do not apply to any person licensed under this chapter whose license has been suspended or revoked by the board or another jurisdiction.

(8) Nothing in this section shall be construed to exempt a person from meeting the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the person is not qualified by training or experience.

History.—ss. 15, 19, ch. 87-252; ss. 12, 19, 20, ch. 90-263; s. 4, ch. 91-429; s. 120, ch. 92-149; s. 34, ch. 93-39; s. 15, ch. 95-279; s. 512, ch. 97-103; s. 18, ch. 97-198; s. 210, ch. 97-264; s. 157, ch. 98-

403; s. 171, ch. 99-397; s. 128, ch. 2001-277; s. 63, ch. 2006-227; s. 25, ch. 2010-210; s. 27, ch. 2013-252.

**491.0141 Practice of hypnosis.**—A person licensed under this chapter who is qualified as determined by the board may practice hypnosis as defined in s. 485.003(1). The provisions of this chapter may not be interpreted to limit or affect the right of any person qualified pursuant to chapter 485 to practice hypnosis pursuant to that chapter or to practice hypnosis for nontherapeutic purposes, so long as such person does not hold herself or himself out to the public as possessing a license issued pursuant to this chapter or use a title protected by this chapter.

History.—ss. 15, 19, ch. 87-252; ss. 19, 20, ch. 90-263; s. 4, ch. 91-429; ss. 121, 127, ch. 92-149; s. 2, ch. 95-279; s. 513, ch. 97-103; s. 215, ch. 2000-160.

**491.0143 Practice of sex therapy.**—Only a person licensed by this chapter who meets the qualifications set by the board may hold herself or himself out as a sex therapist. The board shall define these qualifications by rule. In establishing these qualifications, the board may refer to the sexual disorder and sexual dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association or other relevant publications.

History.—ss. 15, 19, ch. 87-252; ss. 19, 20, ch. 90-263; s. 4, ch. 91-429; s. 514, ch. 97-103.

**491.0144 The practice of juvenile sexual offender therapy.**—Only a person licensed by this chapter who meets the qualifications set by the board may hold himself or herself out as a juvenile sexual offender therapist, except as provided in s. 490.0145. These qualifications shall be determined by the board. The board shall require training and coursework in the specific areas of juvenile sexual offender behaviors, treatments, and related issues. In establishing these qualifications, the board may refer to the sexual disorder and dysfunction sections of the most current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, Association for the Treatment of Sexual Abusers Practitioner's Handbook, or other relevant publications.

History.—s. 5, ch. 98-158.

**491.0145 Certified master social worker.**—The department may certify an applicant for a designation as a certified master social worker upon the following conditions:

(1) The applicant completes an application to be provided by the department and pays a nonrefundable fee not to exceed \$250 to be established by rule of the department. The completed application must be received by the department at least 60 days before the date of the examination in order for the applicant to qualify to take the scheduled exam.

(2) The applicant submits proof satisfactory to the department that the applicant has received a doctoral degree in social work, or a master's degree with a major emphasis or specialty in clinical practice or administration, including, but not limited to, agency administration and supervision, program planning and evaluation, staff development, research, community organization, community services, social planning, and human service advocacy. Doctoral degrees must have been received from a graduate school of social work which at the time the applicant was enrolled and graduated was accredited by an accrediting agency approved by the United States Department of Education. Master's degrees must have been received from a graduate school of social work which at the time the applicant was enrolled and graduated was accredited by the Council on Social Work Education or the Canadian Association of Schools of Social Work or by one that meets comparable standards.

(3) The applicant has had at least 3 years' experience, as defined by rule, including, but not limited to, clinical services or administrative activities as defined in subsection (2), 2 years of which must be at the post-master's level under the supervision of a person who meets the education and experience requirements for certification as a certified master social worker, as defined by rule, or licensure as a clinical social worker under this chapter. A doctoral internship may be applied toward the supervision requirement.

(4) Any person who holds a master's degree in social work from institutions outside the United States may apply to the department for certification if the academic training in social work has been evaluated as equivalent to a degree from a school accredited by the Council on Social Work Education. Any such person shall submit a copy of the academic training from the Foreign Equivalency Determination Service of the Council on Social Work Education.

(5) The applicant has passed an examination required by the department for this purpose. The nonrefundable fee for such examination may not exceed \$250 as set by department rule.

(6) Nothing in this chapter shall be construed to authorize a certified master social worker to provide clinical social work services.

History.—ss. 15, 19, ch. 87-252; ss. 14, 19, 20, ch. 90-263; s. 4, ch. 91-429; s. 10, ch. 98-130; s. 33, ch. 2000-242.

**491.0147 Confidentiality and privileged communications.**—Any communication between any person licensed or certified under this chapter and her or his patient or client shall be confidential. This secrecy may be waived under the following conditions:

(1) When the person licensed or certified under this chapter is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action.

(2) When the patient or client agrees to the waiver, in writing, or, when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(3) When, in the clinical judgment of the person licensed or certified under this chapter, there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed or certified under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities. There shall be no liability on the part of, and no cause of action of any nature shall arise against, a person licensed or certified under this chapter for the disclosure of otherwise confidential communications under this subsection.

History.—ss. 15, 19, ch. 87-252; ss. 19, 20, ch. 90-263; s. 4, ch. 91-429; s. 515, ch. 97-103; s. 1, ch. 2009-103.

**491.0148 Records.**—Each psychotherapist who provides services as defined in this chapter shall maintain records. The board may adopt rules defining the minimum requirements for records and reports, including content, length of time records shall be maintained, and transfer of either the records or a report of such records to a subsequent treating practitioner or other individual with written consent of the client or clients.

History.—ss. 13, 20, ch. 90-263; s. 4, ch. 91-429.

**491.0149 Display of license; use of professional title on promotional materials.**—

(1)(a) A person licensed under this chapter as a clinical social worker, marriage and family therapist, or mental health counselor, or certified as a master social worker shall conspicuously display the valid license issued by the department or a true copy thereof at each location at which the licensee practices his or her profession.

(b)1. A licensed clinical social worker shall include the words "licensed clinical social worker" or the letters "LCSW" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.

2. A licensed marriage and family therapist shall include the words "licensed marriage and family therapist" or the letters "LMFT" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.

3. A licensed mental health counselor shall include the words "licensed mental health counselor" or the letters "LMHC" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the licensee.

(2)(a) A person registered under this chapter as a clinical social worker intern, marriage and family therapist intern, or mental health counselor intern shall conspicuously display the valid registration issued by the department or a true copy thereof at each location at which the registered intern is completing the experience requirements.

(b) A registered clinical social worker intern shall include the words "registered clinical social worker intern," a registered marriage and family therapist intern shall include the words "registered marriage and family therapist intern," and a registered mental health counselor intern shall include the words "registered mental health counselor intern" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the registered intern.

(3)(a) A person provisionally licensed under this chapter as a provisional clinical social worker licensee, provisional marriage and family therapist licensee, or provisional mental health counselor licensee shall conspicuously display the valid provisional license issued by the department or a true copy thereof at each location at which the provisional licensee is providing services.

(b) A provisional clinical social worker licensee shall include the words "provisional clinical social worker licensee," a provisional marriage and family therapist licensee shall include the words "provisional

marriage and family therapist licensee," and a provisional mental health counselor licensee shall include the words "provisional mental health counselor licensee" on all promotional materials, including cards, brochures, stationery, advertisements, and signs, naming the provisional licensee.  
History.—ss. 15, 20, ch. 90-263; s. 4, ch. 91-429; s. 516, ch. 97-103; s. 19, ch. 97-198; s. 211, ch. 97-264.

**491.015 Duties of the department as to certified master social workers.—**

(1) All functions reserved to boards under chapter 456 shall be exercised by the department with respect to the regulation of certified master social workers and in a manner consistent with the exercise of its regulatory functions.

(2) The department shall adopt rules to implement and enforce provisions relating to certified master social workers.

History.—ss. 15, 19, ch. 87-252; ss. 16, 19, 20, ch. 90-263; s. 4, ch. 91-429; s. 155, ch. 98-166; s. 216, ch. 2000-160.

**491.016 Social work; use of title.—**

(1) A social worker is not authorized to conduct clinical social work without obtaining and possessing a license or certification issued pursuant to this chapter.

(2) It shall be a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for a person, for or without compensation, to hold himself or herself out to the public as a social worker either directly or through a governmental or private organization, entity, or agency unless that person:

(a) Possesses at least a bachelor's or master's degree in social work from a social work program accredited by or from an institution that is an active candidate for accreditation as a social work program by the Council on Social Work Education; or

(b) Completes, at a university or college outside the United States or Canada, a social work program determined by the Foreign Equivalency Determination Service of the Council on Social Work Education to be equivalent to a bachelor's or master's degree in social work.

(3) This section does not apply to:

(a) A person who, prior to July 1, 2008, used the title "social worker" in his or her employment.

(b) Employees providing social work services under administrative supervision in long-term care facilities licensed by the Agency for Health Care Administration.

(4) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce this section.

History.—s. 3, ch. 2008-154.