

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: October 2, 2023

From: Rosanne Helms
Legislative Manager

Subject: Discussion of Clarifying the Term “Supervisee”

Currently, the Board’s practice acts reference the term “supervisee” but do not define it. In most instances, a definition is likely not needed, because in the context in which it is used in the Board’s practice acts, it can reasonably be inferred to mean an individual required by the Board to be under supervision. *(Note: an individual may be required to be under supervision for numerous reasons, for example: they are an associate and gaining hours toward licensure, they are working in a non-exempt setting and therefore registration and supervision are required in order to provide clinical services, they are working under the 90-day rule, or they are an MFT trainee counting hours toward licensure.)*

However, there are two instances where the above may not apply, and the intended definition becomes unclear:

- **Definition of Direct Supervisor Contact (BPC §§[4980.43.2\(b\)](#), [4996.23.1\(b\)](#), [4999.46.2\(b\)](#)):**

These subsections define individual supervision, triadic supervision, and group supervision for purposes of “direct supervisor contact,” which is required when gaining supervised experience hours toward licensure. The current definition for each includes one supervisor and a specified number of “supervisees.”

The term “supervisees” in the context of the Board’s practice act refers to individuals required by the Board’s practice acts to be under supervision. However, when limiting supervisees per supervisor to a particular number, a question arises.

Group supervision is defined as consisting of one supervisor and no more than eight “supervisees”. However, the law does not address whether individuals receiving supervision who are not required by the Board to be under supervision count as members of the group toward the 8 “supervisee” limit. For example, a licensee or pre-licensed psychologist may be participating in group clinical supervision for various reasons, but these individuals do not fit the implied definition of a “supervisee” because they are not required by the Board to be under supervision.

However, they are taking a spot in the supervision group, which was likely limited to 8 in order to ensure each group supervisee gets proper attention from the supervisor.

Attachment A shows the proposed solution to this issue. Instead of limiting the number of “supervisees”, it limits the number of “persons receiving supervision for providing clinical mental health services.” This would capture not only the Board’s associates and trainees, and 90-day rule applicants who are required by the Board to be under supervision, but also psychology pre-licensees and other types of individuals, such as those doing clinical work without a license or registration in an exempt setting, or licensees receiving supervision at the request of their employer.

- **Limitation on Number of Supervisees per Supervisor (BPC §§[4980.43.4\(c\)](#), [4996.23.3\(c\)](#), [4999.46.4\(c\)](#))**

These subsections require that supervisors of supervisees in non-exempt settings have no more than 6 individual or triadic supervisees at any one time. (In exempt settings, there is no limit on the total number of supervisees per individual or triadic supervisor.) The subsection goes on to state that supervisees may be associate marriage and family therapists, associate clinical social workers, or associate professional clinical counselors, or any combination of these.

The reason for the limitation on number of supervisees in non-exempt settings is to ensure that a supervisor can dedicate enough time to properly supervise each one. However, stating that this only includes associates leaves out other potential types of supervisees, such as trainees, those under the 90-day rule, or those seeking a license with the Board of Psychology.

Staff believes the intent of the law is likely to limit all types of supervisees to 6 in non-exempt settings, to ensure quality supervision.

Attachment B shows proposed clarifying language for this subdivision. It does the following:

- Clarifies that supervisors in non-exempt settings are limited to a total of six individual or triadic supervisees. Currently, it is unclear whether the 6 supervisees per supervisor is 6 per setting, or 6 total across all settings the supervisor is working in.
- Limits the supervisor to a total of six individuals who are receiving supervision for providing clinical mental health services in non-exempt settings.

Instead of just capturing associates in the limit, this also captures other types of supervisees such as trainees, social work interns, 90-day rule applicants, and those being supervised as part of their training for other professions, such as psychology.

Delayed Implementation Needed?

If the Committee decides to proceed with this proposal, it should discuss whether it believes delayed implementation is needed to give supervisors additional time to adjust to the changes.

Policy and Advocacy Committee and Board Discussion

The Policy and Advocacy Committee considered this proposal at its July 21, 2023 meeting. It directed staff to bring the language to the Board for further discussion.

The Board discussed the proposal at its August 18, 2023 meeting. It gave staff direction to draft the option for **Attachment B** that would include all individuals providing clinical mental health services in a non-exempt setting in the limit of 6 individuals per supervisor, rather than just including those who are gaining supervised experience hours toward licensure with the Board. It also directed staff to draft the proposed language for all 3 applicable license types.

Recommendation

Conduct an open discussion about proposed amendments discussed in this memo. Direct staff to make any discussed changes and any non-substantive changes and bring back to the Board for consideration as a legislative proposal.

Attachments

Attachment A: Proposed Amendments: BPC §4980.43.2(b), 4996.23.1(b), 4999.46.2(b)

Attachment B: Proposed Amendments: BPC §4980.43.4(c), 4996.23.3(c), 4999.46.4(c)

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Attachment A
Proposed Amendments: BPC §4980.43.2(b), 4996.23.1(b), 4999.46.2(b)

LMFTs

BPC §4980.43.2

(a) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (10) of subdivision (c) of Section 4980.43, direct supervisor contact shall occur as follows:

(1) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(2) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of direct clinical counseling performed each week in each setting. For experience gained on or after January 1, 2009, no more than six hours of supervision, whether individual, triadic, or group, shall be credited during any single week.

(3) An associate gaining experience who performs more than 10 hours of direct clinical counseling in a week in any setting shall receive at least one additional hour of direct supervisor contact for that setting. For experience gained on or after January 1, 2009, no more than six hours of supervision, whether individual, triadic, or group, shall be credited during any single week.

(4) Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, triadic supervision, or a combination of both.

(b) (1) For purposes of this chapter, “one hour of direct supervisor contact” means any of the following:

(A) Individual supervision, which means one hour of face-to-face contact between one supervisor and one superviseeperson receiving supervision for providing clinical mental health services.

(B) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two superviseespersons receiving supervision for providing clinical mental health services.

(C) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight superviseespersons receiving supervision for providing clinical mental health services. Segments of group supervision may be split into no less than one continuous hour. A supervisor shall ensure that the amount and degree of supervision is appropriate for each superviseeperson in the group.

(2) For purposes of this subdivision, “face-to-face contact” means in-person contact, contact via two-way, real-time videoconferencing, or some combination of these.

(c) The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.

(d) (1) Within 60 days of the commencement of supervision, a supervisor shall conduct a meeting with the supervisee during which the supervisor shall assess the appropriateness of allowing the supervisee to receive supervision via two-way, real-time videoconferencing. This assessment of appropriateness shall include, but is not limited to, the abilities of the supervisee, the preferences of both the supervisee and supervisor, and the privacy of the locations of the supervisee and supervisor while supervision is conducted.

(2) The supervisor shall document the results of the assessment made pursuant to paragraph (1), and shall not utilize supervision via two-way, real-time videoconferencing if their assessment finds it is not appropriate.

(e) Direct supervisor contact shall occur within the same week as the hours claimed.

(f) Alternative supervision may be arranged during a supervisor’s vacation or sick leave if the alternative supervision meets the requirements of this chapter.

(g) Notwithstanding any other law, once the required number of experience hours are gained, associates and applicants for licensure shall receive a minimum of one hour of direct supervisor contact per week for each practice setting in which direct clinical counseling is performed. Once the required number of experience hours are gained, further supervision for nonclinical practice, as defined in paragraph (10) of subdivision (c) of Section 4980.43, shall be at the supervisor’s discretion.

(h) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

LCSWs

BPC §4996.23.1

(a) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (3) of subdivision (d) of Section 4996.23, direct supervisor contact shall occur as follows:

(1) Supervision shall include at least one hour of direct supervisor contact each week for which experience is credited in each work setting.

(2) An associate gaining experience who performs more than 10 hours of direct clinical counseling in a week in any setting shall receive at least one additional hour of direct supervisor contact for that setting.

(b) (1) For purposes of this chapter, “one hour of direct supervisor contact” means any of the following:

(A) Individual supervision, which means one hour of face-to-face contact between one supervisor and one ~~supervisee~~person receiving supervision for providing clinical mental health services.

(B) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two ~~supervisees~~persons receiving supervision for providing clinical mental health services.

(C) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight ~~supervisees~~persons receiving supervision for providing clinical mental health services. Segments of group supervision may be split into no less than one continuous hour. A supervisor shall ensure that the amount and degree of supervision is appropriate for each ~~supervisee~~person in the group.

(2) For purposes of this subdivision, “face-to-face contact” means in-person contact, contact via two-way, real-time videoconferencing, or some combination of these.

(c) The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.

(d) (1) Within 60 days of the commencement of supervision, a supervisor shall conduct a meeting with the supervisee during which the supervisor shall assess the appropriateness of allowing the supervisee to receive supervision via two-way, real-time videoconferencing. This assessment of appropriateness shall include, but is not limited to, the abilities of the supervisee, the preferences of both the supervisee and supervisor, and the privacy of the locations of the supervisee and supervisor while supervision is conducted.

(2) The supervisor shall document the results of the assessment made pursuant to paragraph (1), and shall not utilize supervision via two-way, real-time videoconferencing if their assessment finds it is not appropriate.

(e) Direct supervisor contact shall occur within the same week as the hours claimed.

(f) Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, triadic supervision, or a combination of both.

(g) Of the 52 weeks of required individual or triadic supervision, no less than 13 weeks shall be supervised by a licensed clinical social worker.

(h) Alternative supervision may be arranged during a supervisor’s vacation or sick leave if the alternative supervision meets the requirements of this chapter.

(i) Notwithstanding any other law, once the required number of experience hours are gained, an associate clinical social worker or applicant for licensure shall receive a

minimum of one hour of direct supervisor contact per week for each practice setting in which direct clinical counseling is performed. Once the required number of experience hours are gained, further supervision for nonclinical practice, as described in paragraph (3) of subdivision (d) of Section 4996.23, shall be at the supervisor's discretion.

(j) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

LPCCs

BPC §4999.46.2

(a) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (4) of subdivision (c) of Section 4999.46, direct supervisor contact shall occur as follows:

(1) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(2) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of direct clinical counseling performed each week in each setting. For experience gained after January 1, 2009, no more than six hours of supervision, whether individual, triadic, or group, shall be credited during any single week.

(3) An associate gaining experience who performs more than 10 hours of direct clinical counseling in a week in any setting shall receive at least one additional hour of direct supervisor contact for that setting. For experience gained after January 1, 2009, no more than six hours of supervision, whether individual supervision, triadic supervision, or group supervision, shall be credited during any single week.

(4) Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, triadic supervision, or a combination of both.

(b) (1) For purposes of this chapter, "one hour of direct supervisor contact" means any of the following:

(A) Individual supervision, which means one hour of face-to-face contact between one supervisor and one supervisee-person receiving supervision for providing clinical mental health services.

(B) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two superviseespersons receiving supervision for providing clinical mental health services.

(C) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight superviseespersons receiving supervision for providing clinical mental health services. Segments of group supervision may be split

into no less than one continuous hour. The supervisor shall ensure that the amount and degree of supervision is appropriate for each superviseeperson in the group.

(2) For purposes of this subdivision, “face-to-face contact” means in-person contact, contact via two-way, real-time videoconferencing, or some combination of these.

(c) The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.

(d) (1) Within 60 days of the commencement of supervision, a supervisor shall conduct a meeting with the supervisee during which the supervisor shall assess the appropriateness of allowing the supervisee to receive supervision via two-way, real-time videoconferencing. This assessment of appropriateness shall include, but is not limited to, the abilities of the supervisee, the preferences of both the supervisee and supervisor, and the privacy of the locations of the supervisee and supervisor while supervision is conducted.

(2) The supervisor shall document the results of the assessment made pursuant to paragraph (1), and shall not utilize supervision via two-way, real-time videoconferencing if their assessment finds it is not appropriate.

(e) Direct supervisor contact shall occur within the same week as the hours claimed.

(f) Alternative supervision may be arranged during a supervisor’s vacation or sick leave if the alternative supervision meets the requirements in this chapter.

(g) Notwithstanding any other law, once the required number of experience hours are gained, associates and applicants for licensure shall receive a minimum of one hour of direct supervisor contact per week for each practice setting in which direct clinical counseling is performed. Once the required number of experience hours are gained, further supervision for nonclinical practice, as defined in paragraph (4) of subdivision (c) of Section 4999.46, shall be at the supervisor’s discretion.

(h) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

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Attachment B
Proposed Amendments: 4980.43.4(c), 4996.23.3(c), 4999.46.4(c)

LMFTs

BPC §4980.43.4

(a) A trainee, associate, or applicant for licensure shall only perform mental health and related services at the places where their employer permits business to be conducted.

(b) An associate who is employed by or is volunteering in a private practice or a professional corporation shall be supervised by an individual who is both of the following:

(1) Is employed by or contracted by the associate's employer or is an owner of the private practice or professional corporation.

(2) Either provides psychotherapeutic services to clients for the associate's employer, or meets both of the following:

(A) The supervisor and the associate's employer have a written contract providing the supervisor the same access to the associate's clinical records provided to employees of that employer.

(B) The associate's clients authorize the release of their clinical records to the supervisor.

(c) ~~At any one time, supervisors~~Supervisors of supervisees in a nonexempt settings shall not serve as individual or triadic supervisors for more than a total of six supervisees at any time. Supervisees may be registered as associate marriage and family therapists, associate professional clinical counselors, associate clinical social workers, or any combination of those registrations. individuals who are receiving supervision for providing clinical mental health services in a non-exempt setting.

(d) A written oversight agreement, as specified by the board by regulation, shall be executed between the supervisor and employer when the supervisor is not employed by the supervisee's employer or is a volunteer. The supervisor shall evaluate the site or sites where the supervisee will be gaining experience to determine that the site or sites comply with the requirements of this chapter.

LCSWs

BPC §4996.23.3.

(a) An associate clinical social worker or an applicant for licensure shall only perform mental health and related services at the places where their employer permits business to be conducted.

(b) An associate who is employed by, or volunteering in, a private practice or a professional corporation shall be supervised by an individual who is both of the following:

(1) Is employed by or contracted by the associate's employer or is an owner of the private practice or professional corporation.

(2) Either provides psychotherapeutic services to clients for the associate's employer, or meets both of the following:

(A) The supervisor and the associate's employer have a written contract providing the supervisor the same access to the associate's clinical records provided to employees of that employer.

(B) The associate's clients authorize the release of their clinical records to the supervisor.

(c) ~~At any one time, supervisors~~Supervisors of supervisees in a nonexempt settings shall not serve as individual or triadic supervisors for more than a total of six supervisees at any time. Supervisees may be registered as associate marriage and family therapists, associate professional clinical counselors, associate clinical social workers, or any combination of those registrations. individuals who are receiving supervision for providing clinical mental health services in a non-exempt setting.

(d) A written oversight agreement, as specified by the board by regulation, shall be executed between the supervisor and employer when the supervisor is not employed by the supervisee's employer or is a volunteer. The supervisor shall evaluate the site or sites where the supervisee will be gaining experience to determine that the site or sites comply with the requirements of this chapter.

LPCCs

BPC §4999.46.4.

(a) A clinical counselor trainee, associate, or applicant for licensure shall only perform mental health and related services at the places where their employer permits business to be conducted.

(b) An associate who is employed by or volunteering in a private practice or a professional corporation shall be supervised by an individual who is both of the following:

(1) Is employed by or contracted by the associate's employer or is an owner of the private practice or professional corporation.

(2) Either provides psychotherapeutic services to clients for the associate's employer, or meets both of the following:

(A) The supervisor and the associate's employer have a written contract providing the supervisor the same access to the associate's clinical records provided to employees of that employer.

(B) The associate's clients authorize the release of their clinical records to the supervisor.

(c) ~~At any one time, supervisors~~Supervisors of supervisees in a nonexempt settings shall not serve as individual or triadic supervisors for more than a total of six supervisees at any time. Supervisees may be registered as associate marriage and family therapists, associate professional clinical counselors, associate clinical social workers, or any combination of these registrations. Individuals who are receiving supervision for providing clinical mental health services in a non-exempt setting.

(d) A written oversight agreement, as specified by the board by regulation, shall be executed between the supervisor and employer when the supervisor is not employed by the supervisee's employer or is a volunteer. The supervisor shall evaluate the site or sites where the supervisee will be gaining experience to determine that the site or sites comply with the requirements of this chapter.