

Board of Behavioral Sciences
FINAL STATEMENT OF REASONS

Hearing Date: None

Subject Matter of Proposed Regulations: Continuing Education and Additional Coursework

Section(s) Affected: All regulation sections added, deleted, or amended, herein, are located in the California Code of Regulations (CCR), Title 16, Division 18: Add section 1810.5; amend sections 1807, 1807.2, 1810, 1887, 1887.1, 1887.2, 1887.3, 1887.4.0, 1887.4.1, 1887.4.2, 1887.4.3, and 1887.11.0; and repeal sections 1810.1, 1810.2, 1887.4, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, and 1887.15.

The Initial Statement of Reasons (ISOR) is included in the file. The information contained therein is updated as follows:

Updated Information

1. Nonsubstantive change to form 37A-635 *“Request for Temporary Continuing Education Waiver – Licensee Application”*. There was a minor issue with the text in the grey separator box on page 1 when it was presented to the Board for approval at its meeting in September 2021. The text “Part 1 – To be” that appears prior to the text “completed by licensee” was present on the form, but it was not underlined to indicate that it was a change. It was, however, shown as underlined in the materials noticed to the public, and also shows as underlined in the materials in this regulatory filing. This change does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of the proposed text.
2. The comments received during the 45-day public comment period and the Board’s responses are detailed under “Objections or Recommendations/Responses to Comments.” The Board approved the responses to comments at its meeting on February 11, 2022.
3. The Board first approved the text of the proposal at its meeting in November 20, 2019, then made changes which were approved at its meeting on September 10, 2021. The regulations were noticed on November 16, 2021. The following amendments were made to the proposed regulation text after the 45-day public comment period. The Board approved changes at a meeting on February 11, 2022, and a subsequent 15-day public comment period was held. Board meeting minutes have been added to the file. The additional Board-approved text changes are as follows:
 - a. Minor nonsubstantive grammatical and technical changes to sections 1887.1,

1887.2, 1887.4.0, and 1887.11.0.

- b. Section 1810.5(b): Clarify that an educational institution that offers an extension program is an acceptable training provider.
- c. Section 1887(a): Modify the definition of a continuing education (CE) “course” including striking a previously proposed change that would have defined a CE course as “in person or online” due to concerns that this change may exclude self-study methods; and update and clarify the types of activities that define a CE course.

Forms Incorporated by Reference

It would be impractical to publish the following forms incorporated by reference in the California Code of Regulations:

- Form No. 37A-635 *“Request for Temporary Continuing Education Waiver – Licensee Application”*
- Form No. 37A-636 *“Request for Temporary Continuing Education (CE) Waiver – Verification of Disability or Medical Condition”*

The forms will be readily available on the Board’s website, and sent via mail upon request.

Objections or Recommendations/Responses to Comments Received During 45-Day Public Comment Period

1. Comment from Linda England, LMFT

Summary of comment: The commenter stated, “There are programs that track CEUs. It’s a benefit for us as well as the board to track what has been completed and what needs to be completed.”

Response: The Board appreciates these comments but has determined that no changes to the text are necessary in response. This comment is outside of the scope of the proposed regulatory changes.

2. Comment from Zvi Bellin, LPCC

Summary of comment: The commenter offered the input that “psychotherapists should be trusted to gauge the value of their own CE units. There is so much valuable learning that falls outside of BBS approval. CE has become another business that taxes psychotherapists who are already struggling to make ends meet in an already complicated economic market. BBS should regulate the number of hours and the documentation of hours, though should give liberty to counselors to choose what is of value to their own growth. I believe this shows

trust in the ethical relationship between psychotherapists and the state.”

Response: The Board appreciates these comments but has determined that no changes to the text are necessary in response. This comment is outside of the scope of the proposed regulatory changes.

3. Comments from:

California Association of Marriage and Family Therapists
National Association of Social Workers – California Chapter
Center for Nutritional Psychology
Triad
CEU Love
Niroga Institute

Summary of comments: The commenters above all requested that “self-study” be added to the definition of a CE “course” in section 1887 for clarity and to ensure self-study continues to be allowed as an option. The commenters feel that self-study is an important option for the mode of course delivery and is an effective format.

Response: The Board appreciates these comments and has made changes to the text based thereon.

In 2015, the definition of “self-study” and the limitation on self-study hours was eliminated from the Board’s regulations. As explained in the Initial Statement of Reasons for that regulation package:

“The committee conducted extensive discussions regarding the definition and applicability of self-study versus online learning. It was decided that self-study limitations should be removed, as there are many effective self-study tools in existence. Often, they come in the form of online learning. Online learning is now a mainstream learning tool that is now often used in place of classroom learning and is considered effective in the education industry. In addition, the Board designated approval agencies of CE courses have extensive experience in education methods, and therefore the Board agreed that any self-study courses they allow will meet strict quality specifications. The amended language would now allow a licensee to gain their required CE credits through any course format.”

The intent under today’s proposed regulation changes is to continue allowing self-study (and other course formats) to be accepted when taken from an acceptable CE provider. However, the Board agreed that a text change would help to clarify that self-study and other course formats are permitted, especially since one of the

proposed changes would have specified that a course must be provided “in person or online.” It could be argued that self-study may be neither, and thus that text was stricken.

The phrase “self-study” was not added, as a more general/generic definition would allow for greater flexibility in course formats, especially for future formats that we may not be able to conceive of at this point. However, to help clarify that self-study types of activities are acceptable, the Board added “written” instruction and activities to the examples provided under the course definition.

Comments Received During the 15-Day Modified Text Public Comment Period (February 28, 2022 to March 15, 2022)

No comments were received.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact/Finding of Necessity

The Board has determined that the proposed regulations do not have a significant adverse economic impact on small businesses.

The Board hereby finds that it is necessary for the public health, safety, and welfare of the people of California that this regulation apply to businesses. This regulatory proposal will help protect consumers who are receiving mental health treatment by ensuring that psychotherapists are competent and appropriately trained to provide mental health services.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board 1) would be more effective in carrying out the purpose for which the action is proposed; 2) would be as effective and less burdensome to affected private persons than the proposed regulation; or 3) would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The alternatives considered were as follows:

1. Not adopt the regulations. This alternative was rejected for the following reasons:
 - The law would remain outdated, inconsistent, and unclear in certain areas.
 - There would continue to be confusion or a lack of understanding about certain aspects of the law and how to comply with the law.

- The opportunity to enhance consumer protection would be lost.
 - The CE Exception request forms would continue to lack clarity.
2. Adopt the regulations. The Board determined that this alternative is the most feasible because it would provide clarity and consistency in the Board's regulations, reduce confusion and assist with greater understanding of the regulations and how to comply with them, enhance consumer protection and protect personal health information.