

- It classifies all settings into two main types: exempt settings and non-exempt settings. The definition of exempt settings remains the same (a school, college, or university, a government entity, or an institution that is both nonprofit and charitable). Non-exempt settings are all settings that do not qualify as exempt settings.
- It carves out definitions of two specific types of settings that fall under the non-exempt setting umbrella: private practices and professional corporations. These definitions are used to place certain additional limitations on these specific types of settings.
- It specifically states that an active license or registration number is required to provide psychotherapeutic services in any non-exempt setting, with two exceptions:
 - Specifies that a trainee may provide services in a non-exempt setting as long as it is not a private practice or a professional corporation, and the trainee is under the jurisdiction and supervision of their school.
 - Specifies that an applicant for associate registration following the 90-day rule (BPC §§4980.43, 4996.23, 4999.46) may provide services in a non-exempt setting as long as it is not a private practice or a professional corporation, if they are in compliance with the laws pertaining to the 90-day rule.
- It specifies that an entity that is licensed or certified by a government regulatory agency to provide health care services is not considered a private practice setting.
- It limits supervisors in **any non-exempt setting** to **six** individual or triadic supervisees at a time. (Previously, the limit was **three** associates per supervisor in a **private practice or a corporation only**.)
- It permits contracted supervisors in a private practice or professional corporation. In these settings, the supervisor must provide psychotherapeutic services to clients at the same site as the associate.

Kaiser Employs Associates Across Multiple Entities

Kaiser frequently employs associate clinical social workers (ASWs) who are gaining experience toward licensure. According to their 2020 Northern California HMO Provider Manual, Kaiser is split into three employing entities:

- **Kaiser Foundation Health Plan, Inc. (KFHP):** KFHP is a California nonprofit, public benefit corporation that is licensed as a health care service plan under the Knox-Keene Act. KFHP offers HMO plans. KFHP contracts with Kaiser Foundation Hospitals and The Permanente Medical Group to provide or arrange for the provision of medical services.
- **Kaiser Foundation Hospitals (KFH):** KFH is a California nonprofit public benefit corporation that owns and operates community hospitals and outpatient

facilities. KFH provides and arranges for hospital and other facility services, and sponsors charitable, educational, and research activities.

- **The Permanente Medical Group, Inc. (TPMG):** TPMG is a professional corporation of physicians in KPNC that provides and arranges for professional medical services.

Source: Kaiser 2020 Northern California HMO Provider Manual.

ASWs working for The Permanente Medical Group (professional corporation) arm of Kaiser believe it is unfair that they have limits on their required supervision for gaining experience hours toward LCSW licensure that other ASWs working under the Kaiser nonprofit corporations (exempt settings) do not have. (See **Attachment B** for a further explanation of their concern.)

Under the bill proposal as currently drafted, this issue would partly, but not entirely, resolve with the setting definitions bill the Board is proposing. Under current the proposal, the following would apply to supervisors and associates of Kaiser's professional corporation arm:

- They would now be able to arrange for contracted supervisors to supervise their associates (instead of only allowing full time employees to supervise, as is now required.)
- A supervisor would be required to see clients at the same site as their associate, but would no longer be required to be employed full time at the site.
- A supervisor would be limited to six supervisees per supervisor (instead of the current three).

The reason for the additional limitations on private practices and professional corporations is that Board is tasked with public protection as its highest priority. In the past, the Board has determined that private practices and professional corporations are in need of additional oversight to ensure associates are supervised properly, not practicing independently, and to achieve the public protection mandate.

Table 1 summarizes how the requirements would apply in each type of setting under the current bill proposal.

Potential Solution 1: Modify Proposed Government Regulatory Agency Exemption

Proposed BPC sections §4980.06(a)(4) for LMFTs, 4996.14.2(a)(4) for LCSWs, and 4999.26(c)(8) for LPCCs provide that an "entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered a private practice setting."

The reasoning behind adding this allowance is the thought that existing government oversight provides additional public protection, so licensed or certified entities are not subject to the same concerns about lack of oversight as other private practices and professional corporations are.

However, there are a wide and unknown variety of government regulatory agency license or certification types that may broadly qualify an entity to not be considered a private practice, even if it otherwise meets the definition. It is unknown if all types of government agency licenses or certifications would adequately provide the desired level of oversight to provide the additional public protection the Board believes is needed in a private practice or professional corporation.

One solution to this concern would be an amendment narrowing the allowance to facilities licensed by only certain government entities, such as the following:

“A facility licensed by the California Department of Public Health or the Department of Health Care Services shall not be considered a private practice setting.”

California Department of Public Health (CDPH)

According to its website, the CDPH Licensing and Certification Program does the following¹:

“Our top priority is to protect patient safety and ensure quality care for all patients and residents of the more than 11,000 health care facilities we regulate in California. These include general acute care hospitals, home health agencies, hospices, skilled nursing facilities, and other facility types.

We ensure compliance with state licensing laws and federal certification regulations in our role as the state survey agency for the Centers for Medicare and Medicaid Services for which we certify facilities to receive Medicare and Medi-Cal reimbursements.”

[Link 1](#) shows CDPH’s licensing fee schedule, which provides a listing of each type of facility they license.

[Link 2](#) is a link to a sample initial application packet for a general acute care hospital applying to be licensed by CDPH.

[Link 3](#) is a link to CDPH’s database to look up health care facilities.

California Department of Health Care Services (DHCS)

According to its website, DHCS licenses the following²:

¹ <https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/LandCProgramHome.aspx>

² <https://www.dhcs.ca.gov/provgovpart/Pages/Licensing-and-Certification-Facility-Licensing.aspx>

“The Department of Health Care Services (DHCS) has sole authority to license facilities providing residential nonmedical services to eligible adults who are recovering from problems related to alcohol or other drug (AOD) misuse or abuse. Licensure is required when one or more of the following services is provided: detoxification, individual sessions, group sessions, educational sessions, or alcoholism or drug abuse recovery or treatment planning, incidental medical services.”

[Link 4](#) is a link to DHCS’s initial treatment provider application for a facility applying to be a residential alcohol or drug recovery program.

[Link 5](#) is a link to DHCS’s list of its licensed and certified alcohol and drug programs.

What This Amendment Would Mean

If the amendment proposed above were accepted, it would mean that a facility that would normally qualify as a private practice or a professional corporation would instead be considered a non-exempt setting, if it is currently licensed by CDPH or DHCS. As a non-exempt setting, it would be subject to the following requirements:

- Supervisors are limited to six supervisees per supervisor.
- Supervision must be in-person (not permitted via videoconferencing)
- It would not be subject to the requirement for private practices that supervisors must provide services to clients at the same site as their associates.
- Applicants for registration utilizing the 90-day rule could work at the facility while awaiting registration issuance.
- Trainees could work at the facility under the supervision of their school.

A downside to this potential solution is that there are other government regulatory entities that license facilities other than CDPH and DHCS. **Reference 1** links to a report by the California Healthcare Foundation titled “Taking Inventory: A Framework for Understanding Health Care Regulation and Oversight in California” (May 2014). A few key takeaways from this report are as follows:

- In addition to CDPH and DHCS, there are other state agencies that also provide health care regulatory oversight, such as the Department of Social Services and the Department of Aging (Pages 5, 7, 22, 23). Federal and local governments also sometimes have a role in regulation (Page 8).
- The frequency, intensity, and resources for the regulatory agency to regulate is not necessarily the same across agencies (Page 13 and 14). This could make it difficult for the Board to know exactly what a given government agency is regulating, and whether it has the appropriate resources to do so sufficiently.

Potential Solution 2: Partially Modify Language Requiring Supervisors in Private Practice/Professional Corporations to See Clients at Same Site as Their Associates

Another potential solution is to delete the provision stating that an “entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered a private practice setting.” from the bill. Instead, the Board could focus on the following provision in the bill proposal governing supervision in a private practice/professional corporation (proposed BPC §§4980.43.4(b), 4996.23.3(b), 4999.46.4(b)), stating the supervisor must be:

- (1) Is employed by or contracted by the associate’s employer, or is an owner of the private practice or professional corporation, and*
- (2) Provides psychotherapeutic services to clients at the same site as the associate.*

A change here would likely need to be done incrementally. The COVID-19 state of emergency has caused therapy to shift from largely in-person to telehealth, and it remains to what degree this will continue after the emergency has passed. Therefore, the locations from which trainees and associates provide services, and their supervision via remote means, will be examined by the Board’s newly formed Telehealth Committee, and changes will likely be proposed in legislation and/or regulations that the Telehealth Committee develops over the next year.

Looking at examples of other state’s laws might be able to assist the Board in this effort. For example, in Arizona, the supervisor is not required to be employed by the same behavioral health entity as the supervisee, even if a private practice. The supervisee must provide verification that the supervisor and entity have a written contract providing the supervisor the same access to the supervisee’s records as an employee, and the client must authorize the release of records to the supervisor.

The Board’s proposed supervision regulations, which are currently undergoing final review, should help to better ensure quality of supervision and ensure supervisors and supervisees are more aware of their responsibilities. The regulations require supervisors to have additional training, and also that they annually assess the abilities of their supervisee. The regulations also require, in the written oversight agreement required between the supervisor and the employer, that the employer agrees to provide the supervisor access to clinical records of the clients counseled by the supervisee.

Overall, changes related to allowances for supervision via telehealth are possible for the future, but need to be vetted by the Board further and are premature at this time. In the meantime, staff suggests that the above language might be amended to state a supervisor in a private practice/professional corporation must be:

- (1) Is employed by or contracted by the associate’s employer, or is an owner of the private practice or professional corporation, and*

(2) Provides psychotherapeutic professional services to clients at the same site as the associate for the associate's employer.

This would be a first step in addressing the same site issue. The Board could refine the requirements further as needed in the future based on outcomes from the Telehealth Committee and implementation of the new supervision regulations.

Potential Solution 3: Health And Safety Code §128735 Model

Kaiser has offered that a review of Health and Safety Code (HSC) §128735(e)(2) ([Reference 2](#)) might provide a model solution for the concerns it has raised.

This particular section pertains to data reporting required of health facilities. Subsection (e) states the following reporting is required:

(e) (1) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(2) Notwithstanding paragraph (1), a health facility that receives a preponderance of its revenue from associated comprehensive group practice prepayment health care service plans and that is operated as a unit of a coordinated group of health facilities under common management may report the information required pursuant to subdivisions (a) and (d) for the group and not for each separately licensed health facility.

Essentially, for reporting purposes, if a health facility is part of a group practice run as part of a commonly managed unit, it may report as part of the group and not as a separate facility.

Although the specific reporting details are not relevant here, the concept of allowing a health facility (such as Kaiser) with multiple branches to be treated as a single setting type may be helpful here if it can be articulated appropriately and applied while maintaining consumer protection.

Recommendation

Conduct an open discussion about the potential amendments to the practice setting definitions bill and the proposed solutions above.

Attachments

Attachment A: Practice Setting Definition Bill – Proposed Language as Approved by the Board on November 6, 2020

Attachment B: Clinical Supervision Disparity Between Nonprofit and For-Profit Settings (From Josey Baker, LCSW, PPSC, Medical Social Worker, The Permanente Medical Group, Inc.)

Table 1: Current Proposal: Requirements for Each Type of Setting

Reference 1: [“Taking Inventory: A Framework for Understanding Health Care Regulation and Oversight in California” California Healthcare Foundation, May 2014](#)

Reference 2: [Health and Safety Code §128735](#)

**ATTACHMENT A
PRACTICE SETTING DEFINITION BILL PROPOSAL LANGUAGE
BOARD APPROVED 11/6/2020**

LICENSED MARRIAGE AND FAMILY THERAPISTS

AMEND §4980.01. CONSTRUCTION WITH OTHER LAWS; NONAPPLICATION TO CERTAIN PROFESSIONALS AND EMPLOYEES (Incorporates AB 630 Amendments)

(a) This chapter shall not be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Law.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of their pastoral or professional duties, or to any person who is admitted to practice law in the state, or a physician and surgeon who provides counseling services as part of their professional practice.

(c) This chapter shall not apply to an unlicensed or unregistered employee or volunteer working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable if both of the following apply:

(1) The work of the employee or volunteer is performed ~~solely under the supervision~~ under the oversight and direction of the entity.

(2) On and after July 1, 2020, the employee or volunteer provides a client, prior to initiating psychotherapy services, a notice written in at least 12-point type that is in substantially the following form:

NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered counselor providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care provider subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c), all persons registered as associates or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

ADD §4980.05 EXEMPT SETTINGS

The settings described in section 4980.01 are exempt settings and do not fall under the jurisdiction of this chapter or the Board except as specified in section 4980.01, and with the following exceptions:

- (a) Any individual working or volunteering in an exempt setting who is licensed or registered under this chapter shall fall under the jurisdiction of the Board and is not exempt from this chapter.
- (b) An entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered an exempt setting unless it directly meets the criteria described in section 4980.01.

ADD §4980.06 OTHER TYPES OF PRACTICE SETTINGS

(a) For the purposes of this chapter, the following definitions apply:

1. A “non-exempt setting” is any type of setting that does not qualify as an exempt setting, as specified in section 4980.01.
2. A “private practice” is a type of non-exempt setting that meets the following criteria:
 - (A) The practice is owned by a health professional who is licensed under Division 2 of the Code, either independently or jointly with one or more other health professionals who are licensed under Division 2 of the Code;
 - (B) The practice provides clinical mental health services, including psychotherapy, to clients; and
 - (C) One or more licensed health professionals are responsible for the practice and for the services provided and set conditions of client payment or reimbursement for the provision of services.
3. A “professional corporation” is a type of non-exempt setting and private practice that has been formed pursuant to Part 4 of Division 3 of Title 1 of the Corporations Code (commencing with section 13400).
4. An entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered a private practice setting.

(b) An active license or registration number shall be required to engage in the practice of marriage and family therapy as defined in section 4980.02, in non-exempt settings at all times with the following exceptions:

1. A trainee may engage in the practice of marriage and family therapy in a non-exempt setting that is not a private practice or a professional corporation while they are gaining supervised experience that meets the requirements of this chapter under the jurisdiction and supervision of their school as specified in section 4980.42.
2. An applicant for registration as an associate may engage in the practice of marriage and family therapy in a non-exempt setting that is not a private practice or a professional corporation before the registration number is issued if they are in compliance with subdivision (b) of section 4980.43 and are gaining supervised experience that meets the requirements of this chapter.

**AMEND §4980.43. SUPERVISED EXPERIENCE: ASSOCIATES OR TRAINEES
(Incorporates AB 1651 Amendments)**

(a) Except as provided in subdivision (b), all applicants shall have an active associate registration with the board in order to gain postdegree hours of supervised experience.

(b) (1) ~~Preregistered postdegree hours~~ Post-degree hours of experience gained prior to issuance of an associate registration shall be credited toward licensure if all of the following apply:

(A) The registration applicant applies for the associate registration and the board receives the application within 90 days of the granting of the qualifying master's degree or doctoral degree.

(B) For applicants completing graduate study on or after January 1, 2020, the experience is obtained at a workplace that, prior to the registration applicant gaining supervised experience hours, requires completed Live Scan fingerprinting. The applicant shall provide the board with a copy of that completed State of California "Request for Live Scan Service" form with the application for licensure.

(C) The board subsequently grants the associate registration.

(2) The applicant shall not be employed or volunteer in a private practice or a professional corporation until the applicant has been issued an associate registration by the board.

(c) Supervised experience that is obtained for purposes of qualifying for licensure shall be related to the practice of marriage and family therapy and comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) A maximum of 40 hours in any seven consecutive days.

- (3) A minimum of 1,700 hours obtained after the qualifying master's or doctoral degree was awarded.
- (4) A maximum of 1,300 hours obtained prior to the award date of the qualifying master's or doctoral degree.
- (5) A maximum of 750 hours of counseling and direct supervisor contact prior to the award date of the qualifying master's or doctoral degree.
- (6) Hours of experience shall not be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction.
- (7) Hours of experience shall not have been gained more than six years prior to the date the application for licensure was received by the board, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.
- (8) A minimum of 1,750 hours of direct clinical counseling with individuals, groups, couples, or families, that includes not less than 500 total hours of experience in diagnosing and treating couples, families, and children.
- (9) A maximum of 1,200 hours gained under the supervision of a licensed educational psychologist providing educationally related mental health services that are consistent with the scope of practice of an educational psychologist, as specified in Section 4989.14.
- (10) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to marriage and family therapy that have been approved by the applicant's supervisor.
- (11) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(d) An individual who submits an application for licensure between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements of this section that were in place on January 1, 2015.

AMEND §4980.43.2. DIRECT SUPERVISOR CONTACT

- (a) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (9) of subdivision (a) 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) For purposes of this chapter, “one hour of direct supervisor contact” means any of the following:
- (1) Individual supervision, which means one hour of face-to-face contact between one supervisor and one supervisee.
 - (2) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two supervisees.
 - (3) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight supervisees. 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.
- (c) Direct supervisor contact shall occur within the same week as the hours claimed.
- (d) Alternative supervision may be arranged during a supervisor’s vacation or sick leave if the alternative supervision meets the requirements in this chapter and regulation.
- (de) Notwithstanding subdivision (b), an associate a supervisee working in a governmental entity, school, college, university, or an institution that is nonprofit and charitable an exempt setting described in section 4980.01 may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.
- (ef) 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 (9) of subdivision (a) of Section 4980.43, shall be at the supervisor's discretion.

**AMEND §4980.43.3. SUPERVISED EXPERIENCE: ACCEPTABLE SETTINGS;
ACCEPTABLE SUPERVISION PRACTICES**

- (a) A trainee, associate, or applicant for licensure shall only perform mental health and related services as an employee or volunteer, and not as an independent contractor. The requirements of this chapter regarding hours of experience and supervision shall apply equally to employees and volunteers. A trainee, associate, or applicant for licensure shall not perform any services or gain any experience within the scope of practice of the profession, as defined in Section 4980.02, as an independent contractor. While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.
- (1) If employed, an associate shall provide the board, upon application for licensure, with copies of the W-2 tax forms for each year of experience claimed.
- (2) If volunteering, an associate shall provide the board, upon application for licensure, with a letter from his or her employer verifying the associate's status as a volunteer during the dates the experience was gained.
- (b) (1) A trainee shall not perform services in a private practice or a professional corporation. A trainee may be credited with supervised experience completed in a setting that meets all of the following:
- (A) Is not a private practice or a professional corporation.
- (B) Lawfully and regularly provides mental health counseling or psychotherapy.
- (C) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession, as defined in Section 4980.02.
- (2) Only experience gained in the position for which the trainee volunteers or is employed shall qualify as supervised experience.
- (c) (1) An associate may be credited with supervised experience completed in any setting that meets both of the following:
- ~~(A)~~ Lawfully and regularly provides mental health counseling or psychotherapy.

- ~~(2)~~(B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession, as defined in Section 4980.02.
- ~~(3)~~(2) Only experience gained in the position for which the associate volunteers or is employed shall qualify as supervised experience.
- ~~(4)~~(3) An applicant for registration as an associate shall not be employed or volunteer in a private practice or a professional corporation until he or she has been issued an associate registration by the board.
- (d) Any experience obtained under the supervision of a spouse, relative, or domestic partner shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.
- (e) A trainee, associate, or applicant for licensure shall not receive any remuneration from patients or clients and shall only be paid by his or her employer, if an employee.
- (f) A trainee, associate, or applicant for licensure shall have no proprietary interest in his or her employer's business and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.
- (g) A trainee, associate, or applicant for licensure who provides voluntary services in any lawful work setting ~~other than a private practice~~ and who only receives reimbursement for expenses actually incurred shall be considered an employee. The board may audit an applicant for licensure who ~~receives~~received reimbursement for expenses and the applicant for licensure shall have the burden of demonstrating that the payment received was for reimbursement of expenses actually incurred.
- (h) A trainee, associate, or applicant for licensure who receives a stipend or educational loan repayment from a program designed to encourage demographically underrepresented groups to enter the profession or to improve recruitment and retention in underserved regions or settings shall be considered an employee. The board may audit an applicant who receives a stipend or educational loan repayment and the applicant shall have the burden of demonstrating that the payment received was for the specified purposes.
- (i) An associate or a trainee may provide services via telehealth that are in the scope of practice outlined in this chapter.

- (j) Each educational institution preparing applicants pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her associates and trainees regarding the advisability of undertaking individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, educational institutions and supervisors are encouraged to assist the applicant to locate counseling or psychotherapy at a reasonable cost.

AMEND §4980.43.4. SUPERVISEES: LOCATION OF SERVICES; MAXIMUM NUMBER OF SUPERVISEES; OVERSIGHT AGREEMENT (Incorporates SB 786 Amendments)

- (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 volunteering in a private practice or a professional corporation shall be supervised by an individual who: is employed by, and shall practice at the same site as, the associate's employer. Alternatively, the supervisor may be an owner of the private practice. However, if the site is incorporated, the supervisor must be employed full-time at the site and be actively engaged in performing professional services at the site.
- (1) Is employed by or contracted by the associate's employer, or is an owner of the private practice or professional corporation, and
- (2) Provides psychotherapeutic services to clients at the same site as the associate.
- ~~(c) A supervisor at a private practice or a corporation shall not supervise more than a total of three supervisees at any one time. Supervisees may be registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker.~~
- (c) Supervisors of supervisees in a non-exempt setting shall not serve as an individual or triadic supervisor 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.
- ~~(d) In a setting that is not a private practice:~~
- ~~(1) A written oversight agreement, as specified 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.~~

~~(2) A supervisor shall evaluate the site or sites where a trainee or associate will be gaining experience to determine that the site or sites comply with the requirements set forth in this chapter.~~

(d) A written oversight agreement, as specified 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 set forth in this chapter.

~~(e) Alternative supervision may be arranged during a supervisor's vacation or sick leave if the alternative supervision meets the requirements in this chapter and regulation.~~

AMEND §4980.46. FICTITIOUS BUSINESS NAMES

Any licensed marriage and family therapist who ~~conducts a private practice~~ owns a business under utilizing a fictitious business name shall not use any name which is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

LICENSED CLINICAL SOCIAL WORKERS

AMEND §4992.10. FICTITIOUS BUSINESS NAME

A licensed clinical social worker who ~~conducts a private practice~~ owns a business under utilizing a fictitious business name shall not use a name that is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

§4996.13. OTHER PROFESSIONAL GROUPS; WORK OF PSYCHOSOCIAL NATURE; IMPERMISSIBLE REPRESENTATIONS

Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or that they shall not state or imply that they are licensed to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

(a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).

- (b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).
- (c) Members of the State Bar of California.
- (d) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980).
- (e) Licensed professional clinical counselors pursuant to Chapter 16 (commencing with Section 4999.10).
- (f) A priest, rabbi, or minister of the gospel of any religious denomination.

AMEND §4996.14. EMPLOYEES OF CERTAIN ORGANIZATIONS; ACTIVITIES OF PSYCHOSOCIAL NATURE (Incorporates AB 630 Amendments)

(a) This chapter shall not be construed to constrict, limit, or withdraw the Medical Practice Act, the Licensed Marriage and Family Therapist Act, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Law.

(b) This chapter shall not apply to an unlicensed or unregistered employee or volunteer working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable if both of the following apply:

(1) The work of the employee or volunteer is performed ~~solely under the supervision of the~~ under the oversight and direction of the entity.

(2) On and after July 1, 2020, the employee or volunteer provides a client, prior to initiating psychotherapy services, a notice written in at least 12-point type that is in substantially the following form:

NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered counselor providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).

(c) This chapter shall not apply to a person using hypnotic techniques if their client was referred by a physician and surgeon, dentist, or psychologist.

(d) This chapter shall not apply to a person using hypnotic techniques that offer vocational self-improvement, and the person is not performing therapy for emotional or mental disorders.

(e) Notwithstanding subdivisions (b) and (c), and notwithstanding section 4996.13, all persons registered as associates or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

ADD §4996.14.1 EXEMPT SETTINGS

The settings described in section 4996.14 are exempt settings and do not fall under the jurisdiction of this chapter or the Board except as specified in section 4996.14, and with the following exceptions:

- (a) Any individual working or volunteering in an exempt setting who is licensed or registered under this chapter shall fall under the jurisdiction of the Board and is not exempt from this chapter.
- (b) An entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered an exempt setting unless it directly meets the criteria described in section 4996.14.

ADD §4996.14.2 OTHER TYPES OF PRACTICE SETTINGS

(a) For the purposes of this chapter, the following definitions apply:

1) A “non-exempt setting” is any type of setting that does not qualify as an exempt setting, as specified in section 4996.14.

2) A “private practice” is a type of non-exempt setting that meets the following criteria:

(A) The practice is owned by a health professional who is licensed under Division 2 of the Code, either independently or jointly with one or more other health professionals who are licensed under Division 2 of the Code;

(B) The practice provides clinical mental health services, including psychotherapy, to clients; and

(C) One or more licensed health professionals are responsible for the practice and for the services provided and set conditions of client payment or reimbursement for the provision of services.

3) A “professional corporation” is a type of non-exempt setting and private practice that has been formed pursuant to Part 4 of Division 3 of Title 1 of the Corporations Code (commencing with section 13400).

4) An entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered a private practice setting.

(b) An active license or registration number shall be required to engage in the practice of clinical social work, as defined in section 4996.9, in non-exempt settings at all times, with the following exceptions:

1) A social work intern may engage in the practice of clinical social work in a non-

exempt setting that is not a private practice or a professional corporation, while pursuing a course of study leading to a master's degree in social work pursuant to section 4996.15.

2) An applicant for registration as an associate may engage in the practice of clinical social work in a non-exempt setting that is not a private practice or a professional corporation before the registration number is issued if they are in compliance with subdivision (b) of section 4996.23 and are gaining supervised experience that meets the requirements of this chapter.

§4996.15. PERFORMANCE OF PSYCHOSOCIAL WORK BY PERSONS IN ACADEMIC INSTITUTIONS, GOVERNMENT AGENCIES OR NONPROFIT ORGANIZATIONS; SOCIAL WORK INTERN (Incorporates AB 630 Amendments)

(a) Nothing in this article shall restrict or prevent psychosocial activities by employees of accredited academic institutions, public schools, government agencies, or nonprofit institutions who train graduate students pursuing a master's degree in social work in an accredited college or university. Any psychosocial activities by the employee shall be part of a supervised course of study and the graduate students shall be designated by such titles as social work interns, social work trainees, or other titles clearly indicating the training status appropriate to their level of training. The term "social work intern," however, shall be reserved for persons enrolled in a master's or doctoral training program in social work in an accredited school or department of social work.

(b) Notwithstanding subdivision (a), a graduate student shall not perform clinical social work in a private practice or a professional corporation.

AMEND §4996.23. SUPERVISED POST-MASTER'S EXPERIENCE (Includes AB 1651 Amendments)

(a) To qualify for licensure, each applicant shall complete 3,000 hours of post-master's degree supervised experience related to the practice of clinical social work. Except as provided in subdivision (b), experience shall not be gained until the applicant is registered as an associate clinical social worker.

(b) Preregistered postdegree Post-degree hours of experience gained prior to issuance of an associate registration shall be credited toward licensure if all of the following apply:

(1) The registration applicant applies for the associate registration and the board receives the application within 90 days of the granting of the qualifying master's or doctoral degree.

(2) For applicants completing graduate study on or after January 1, 2020, the experience is obtained at a workplace that, prior to the registration applicant gaining

supervised experience hours, requires completed Live Scan fingerprinting. The applicant shall provide the board with a copy of that completed "State of California Request for Live Scan Service" form with the application for licensure.

(3) The board subsequently grants the associate registration.

(c) The applicant shall not be employed or volunteer in a private practice or a professional corporation until the applicant has been issued an associate registration by the board.

(d) The experience shall be as follows:

(1) (A) At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology, licensed professional clinical counselor, licensed marriage and family therapist, psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900), licensed educational psychologist, or licensed clinical social worker.

(B) A maximum of 1,200 hours gained under the supervision of a licensed educational psychologist providing educationally related mental health services that are consistent with the scope of practice of an educational psychologist, as specified in Section 4989.14.

(2) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling; however, at least 750 hours shall be face-to-face individual or group psychotherapy provided in the context of clinical social work services.

(3) A maximum of 1,000 hours in client centered advocacy, consultation, evaluation, research, direct supervisor contact, and workshops, seminars, training sessions, or conferences directly related to clinical social work that have been approved by the applicant's supervisor.

(4) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was received by the board.

(5) No more than 40 hours of experience may be credited in any seven consecutive days.

(6) For hours gained on or after January 1, 2010, no more than six hours of supervision, whether individual, triadic, or group supervision, shall be credited during any single week.

(e) An individual who submits an application for licensure between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements of this section that were in place on January 1, 2015.

AMEND §4996.23.1 DIRECT SUPERVISOR CONTACT

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

(1) Individual supervision, which means one hour of face-to-face contact between one supervisor and one supervisee.

(2) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two supervisees.

(3) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight supervisees. 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.

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

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

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

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

(f)(g) Notwithstanding subdivision (b), ~~an associate clinical social worker a supervisee~~ working in ~~a governmental entity, school, college, university, or an institution that is nonprofit and charitable~~ an exempt setting described in section 4996.14 may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring compliance with state and federal laws relating to confidentiality of patient health information.

~~(g)~~(h) 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.

AMEND §4996.23.2. SUPERVISED EXPERIENCE: ACCEPTABLE SETTINGS; ACCEPTABLE SUPERVISION PRACTICES

(a) An associate clinical social worker or applicant for licensure shall only perform mental health and related services as an employee or as a volunteer, not as an independent contractor. The requirements of this chapter regarding hours of experience and supervision shall apply equally to employees and volunteers. An associate or applicant for licensure shall not perform any services or gain any experience within the scope of practice of the profession, as defined in Section 4996.9, as an independent contractor. While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.

(1) If employed, an associate shall provide the board, upon application for licensure, with copies of the corresponding W-2 tax forms for each year of experience claimed.

(2) If volunteering, an associate shall provide the board, upon application for licensure, with a letter from his or her employer verifying the associate's status as a volunteer during the dates the experience was gained.

~~(b) "Private practice," for purposes of this chapter, is defined as a setting owned by a licensed clinical social worker, a licensed marriage and family therapist, a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900), a licensed professional clinical counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.~~

~~(e)~~(b) Employment in a private practice or a professional corporation shall not commence until the applicant has been registered as an associate clinical social worker.

~~(d)~~(c) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

~~(e)~~(d) Only experience gained in the position for which the associate clinical social worker volunteers or is employed shall qualify as supervised experience.

~~(f)~~(e) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience.

Any experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

~~(g)~~(f) An associate clinical social worker or applicant for licensure who provides voluntary services in any lawful work setting ~~other than a private practice~~ and who only receives reimbursement for expenses actually incurred shall be considered an employee. The board may audit an applicant for licensure who ~~receives~~ received reimbursement for expenses and the applicant shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

~~(h)~~(g) An associate clinical social worker or applicant for licensure who receives a stipend or educational loan repayment from a program designed to encourage demographically underrepresented groups to enter the profession or to improve recruitment and retention in underserved regions or settings shall be considered an employee. The board may audit an applicant who receives a stipend or educational loan repayment and the applicant shall have the burden of demonstrating that the payments received were for the specified purposes.

~~(i)~~(h) An associate or applicant for licensure shall not receive any remuneration from patients or clients and shall only be paid by his or her employer, if an employee.

~~(j)~~(i) An associate or applicant for licensure shall have no proprietary interest in his or her employer's business and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

~~(k)~~(j) Each educational institution preparing applicants pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her supervisees regarding the advisability of undertaking individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, educational institutions and supervisors are encouraged to assist the applicant to locate counseling or psychotherapy at a reasonable cost.

AMEND §4996.23.3. SUPERVISEES: LOCATION OF SERVICES; MAXIMUM NUMBER OF REGISTRANTS; OVERSIGHT AGREEMENT (Includes SB 786 Amendments)

(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 employed by, and shall practice at the same site as, the associate's employer. Alternatively, the~~

~~supervisor may be an owner of the private practice. However, if the site is incorporated, the supervisor must be employed full-time at the site and be actively engaged in performing professional services at the site.~~

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

~~(2) Provides psychotherapeutic services to clients at the same site as the associate.~~

~~(c) A supervisor at a private practice or a corporation shall not supervise more than a total of three supervisees at any one time. A supervisee may be registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker.~~

~~(c) Supervisors of supervisees in a non-exempt setting shall not serve as an individual or triadic supervisor 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.~~

~~(d) In a setting that is not a private practice:~~

~~(1) A written oversight agreement, as specified 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.~~

~~(2) A supervisor shall evaluate the site or sites where an associate clinical social worker will be gaining experience to determine that the site or sites are in compliance with the requirements set forth in this chapter and regulations.~~

~~(d) A written oversight agreement, as specified 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 set forth in this chapter.~~

~~(e) Alternative supervision may be arranged during a supervisor's vacation or sick leave if the alternative supervision meets the requirements in this chapter and by regulation.~~

LICENSED PROFESSIONAL CLINICAL COUNSELORS

AMEND §4999.22. CONSTRUCTION WITH OTHER LAWS; NONAPPLICATION TO CERTAIN PROFESSIONALS AND EMPLOYEES (Incorporates AB 630 Amendments)

(a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words "licensed professional clinical counselor" and shall not state that they are licensed to practice

professional clinical counseling, unless they are otherwise licensed to provide professional clinical counseling services.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Clinical Social Worker Practice Act, the Nursing Practice Act, the Psychology Licensing Law, or the Licensed Marriage and Family Therapist Act.

(c) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of their pastoral or professional duties, or to any person who is admitted to practice law in this state, or who is licensed to practice medicine, who provides counseling services as part of their professional practice.

(d) This chapter shall not apply to an unlicensed or unregistered employee or volunteer working in a governmental entity or a school, a college, a university, or an institution that is both nonprofit and charitable, if both of the following apply:

(1) The work of the employee or volunteer is performed ~~solely under the supervision of~~ under the oversight and direction of the entity.

(2) On and after July 1, 2020, the employee or volunteer provides a client, prior to initiating psychotherapy services, a notice written in at least 12-point type that is in substantially the following form:

NOTICE TO CLIENTS

The (Name of office or unit) of the (Name of agency) receives and responds to complaints regarding the practice of psychotherapy by any unlicensed or unregistered counselor providing services at (Name of agency). To file a complaint, contact (Telephone number, email address, internet website, or mailing address of agency).

(e) Notwithstanding subdivisions (c) and (d), all AH persons registered as associates or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

ADD §4999.25 EXEMPT SETTINGS

The settings described in section 4999.22 are exempt settings and do not fall under the jurisdiction of this chapter or the board except as specified in section 4999.22, and with the following exceptions:

(a) Any individual working or volunteering in an exempt setting who is licensed or registered under this chapter shall fall under the jurisdiction of the board and is not exempt from this chapter.

(b) An entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered an exempt setting unless it

directly meets the criteria described in section 4999.22.

ADD §4999.26 OTHER TYPES OF PRACTICE SETTINGS

(c) For the purposes of this chapter, the following definitions apply:

5. A “non-exempt setting” is any type of setting that does not qualify as an exempt setting, as specified in section 4999.22.
6. A “private practice” is a type of non-exempt setting that meets the following criteria:
 - (A) The practice is owned by a health professional who is licensed under Division 2 of the Code, either independently or jointly with one or more other health professionals who are licensed under Division 2 of the Code;
 - (B) The practice provides clinical mental health services, including psychotherapy, to clients; and
 - (C) One or more licensed health professionals are responsible for the practice and for the services provided and set conditions of client payment or reimbursement for the provision of services.
7. A “professional corporation” is a type of non-exempt setting and private practice that has been formed pursuant to Part 4 of Division 3 of Title 1 of the Corporations Code (commencing with section 13400).
8. An entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered a private practice setting.

(d) An active license or registration number shall be required to engage in the practice of professional clinical counseling as defined in section 4999.20, in non-exempt settings at all times with the following exceptions:

1. A trainee may engage in the practice of professional clinical counseling in a non-exempt setting that is not a private practice or a professional corporation while they are gaining supervised experience that meets the requirements of this chapter under the jurisdiction and supervision of their school as specified in section 4999.36.
2. An applicant for registration as an associate may engage in the practice of professional clinical counseling in a non-exempt setting that is not a private practice or a professional corporation before the registration number is issued if they are in compliance with subdivision (b) of section 4999.46 and are gaining supervised experience that meets the requirements of this chapter.

RENUMBER AND AMEND ~~§4999.24~~4999.27 TRAINEE SERVICES

(a) Nothing in this chapter shall restrict or prevent activities of a psychotherapeutic or counseling nature on the part of persons employed by accredited or state-approved academic institutions, public schools, government agencies, or nonprofit institutions ~~engaged in the training of graduate students or clinical counselor trainees pursuing a course of study leading to~~ who train graduate students pursuing a degree that qualifies for professional clinical counselor licensure at an accredited or state-approved college or university, ~~or working in a recognized training program~~, provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by a title such as “clinical counselor trainee” or other title clearly indicating the training status appropriate to the level of training.

(c) Notwithstanding subdivision (a), a graduate student shall not perform professional clinical counseling in a private practice or a professional corporation.

AMEND §4999.46. SUPERVISED POST-MASTER’S EXPERIENCE (Includes AB 1651 Amendments)

(a) Except as provided in subdivision (b), all applicants shall have an active associate registration with the board in order to gain postdegree hours of supervised experience.

(b) (1) ~~Preregistered postdegree~~ Post-degree hours of experience gained prior to issuance of an associate registration shall be credited toward licensure if all of the following apply:

(A) The registration applicant applies for the associate registration and the board receives the application within 90 days of the granting of the qualifying master’s degree or doctoral degree.

(B) For applicants completing graduate study on or after January 1, 2020, the experience is obtained at a workplace that, prior to the registration applicant gaining supervised experience hours, requires completed Live Scan fingerprinting. The applicant shall provide the board with a copy of that completed State of California “Request for Live Scan Service” form with their application for licensure.

(C) The board subsequently grants the associate registration.

(2) The applicant shall not be employed or volunteer in a private practice or a professional corporation until they have been issued an associate registration by the board.

(c) Supervised experience that is obtained for the purposes of qualifying for licensure shall be related to the practice of professional clinical counseling and comply with the following:

(1) A minimum of 3,000 postdegree hours performed over a period of not less than two years (104 weeks).

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,750 hours of direct clinical counseling with individuals, groups, couples, or families using a variety of psychotherapeutic techniques and recognized counseling interventions.

(4) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 4999.12.

(5) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to professional clinical counseling that have been approved by the applicant's supervisor.

(6) A maximum of 1,200 hours gained under the supervision of a licensed educational psychologist providing educationally related mental health services that are consistent with the scope of practice of an educational psychologist, as specified in Section 4989.14.

(d) An individual who submits an application for licensure between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements of this section that were in place on January 1, 2015.

(e) Experience hours shall not have been gained more than six years prior to the date the application for licensure was received by the board.

AMEND §4999.46.2. DIRECT SUPERVISOR CONTACT

(a) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (5) 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) For purposes of this chapter, “one hour of direct supervisor contact” means any of the following:

(1) Individual supervision, which means one hour of face-to-face contact between one supervisor and one supervisee.

(2) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two supervisees.

(3) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight supervisees. 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 supervisee.

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

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

~~(d)~~(e) Notwithstanding subdivision (b), an associate a supervisee working in a governmental entity, school, college, university, or institution that is both nonprofit and charitable an exempt setting described in section 4999.22 may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.

~~(e)~~(f) 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 (5) of subdivision (c) of Section 4999.46, shall be at the supervisor’s discretion.

**AMEND §4999.46.3. SUPERVISED EXPERIENCE: ACCEPTABLE SETTINGS;
ACCEPTABLE SUPERVISION PRACTICES**

- (a) A clinical counselor trainee, associate, or applicant for licensure shall only perform mental health and related services as an employee or volunteer, and not as an independent contractor. The requirements of this chapter regarding hours of experience and supervision shall apply equally to employees and volunteers. A clinical counselor trainee, associate, or applicant for licensure shall not perform any services or gain any experience within the scope of practice of the profession, as defined in Section 4999.20, as an independent contractor. While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.
- (1) If employed, an associate shall provide the board, upon application for licensure, with copies of the corresponding W-2 tax forms for each year of experience claimed.
 - (2) If volunteering, an associate shall provide the board, upon application for licensure, with a letter from his or her employer verifying the associate's status as a volunteer during the dates the experience was gained.
- (b) A clinical counselor trainee shall not perform services in a private practice or a professional corporation.
- (c) A trainee shall complete the required predegree supervised practicum or field study experience in a setting that meets all of the following requirements:
- (1) Is not a private practice or a professional corporation.
 - (2) Lawfully and regularly provides mental health counseling or psychotherapy.
 - (3) Provides oversight to ensure that the clinical counselor trainee's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice of the profession, as defined in Section 4999.20.
 - (4) Only experience gained in the position for which the clinical counselor trainee volunteers or is employed shall qualify as supervised practicum or field study experience.
- (d) (1) An associate may be credited with supervised experience completed in any setting that meets both of the following:
- (A) Lawfully and regularly provides mental health counseling or psychotherapy.
 - (B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession, as defined in Section 4999.20.
- (2) Only experience gained in the position for which the associate volunteers or is employed shall qualify as supervised experience.
 - (3) An applicant for registration as an associate shall not be employed or volunteer in a private practice or a professional corporation until he or she has been issued an associate registration by the board.

- (e) Any experience obtained under the supervision of a spouse, relative, or domestic partner shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.
- (f) A clinical counselor trainee, associate, or applicant for licensure shall not receive any remuneration from patients or clients and shall only be paid by his or her employer, if an employee.
- (g) A clinical counselor trainee, associate, or applicant for licensure shall have no proprietary interest in his or her employer's business and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.
- (h) A clinical counselor trainee, associate, or applicant for licensure who provides voluntary services in any lawful work setting ~~other than a private practice~~ and who only receives reimbursement for expenses actually incurred shall be considered an employee. The board may audit an applicant for licensure who ~~receives~~received reimbursement for expenses and the applicant for licensure shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.
- (i) A clinical counselor trainee, associate, or applicant for licensure who receives a stipend or educational loan repayment from a program designed to encourage demographically underrepresented groups to enter the profession or to improve recruitment and retention in underserved regions or settings shall be considered an employee. The board may audit an applicant who receives a stipend or educational loan repayment and the applicant shall have the burden of demonstrating that the payments were for the specified purposes.
- (j) Each educational institution preparing applicants pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her associates and trainees regarding the advisability of undertaking individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, educational institutions and supervisors are encouraged to assist the applicant to locate that counseling or psychotherapy at a reasonable cost.

§4999.46.4. SUPERVISEES: LOCATION OF SERVICES; MAXIMUM NUMBER OF REGISTRANTS; OVERSIGHT AGREEMENT (Includes SB 786 Amendments)

- (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 employed by, and shall practice at the same site as, the associate's employer. Alternatively, the supervisor may be an owner of the private practice. However, if the site is incorporated, the supervisor must be employed full-time at the site and be actively engaged in performing professional services at the site.
- (1) Is employed by or contracted by the associate's employer, or is an owner of the private practice or professional corporation, and
- (2) Provides psychotherapeutic services to clients at the same site as the associate.
- ~~(c) A supervisor at a private practice or a corporation shall not supervise more than a total of three supervisees at any one time. A supervisee may be registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker.~~
- (c) Supervisors of supervisees in a non-exempt setting shall not serve as an individual or triadic supervisor 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.
- ~~(d) In a setting that is not a private practice:~~
- ~~(1) A written oversight agreement, as specified in regulation, shall be executed between the supervisor and employer when the supervisor is not employed by the supervisee's employer or is a volunteer.~~
- ~~(2) A supervisor shall evaluate the site or sites where an associate will be gaining experience to determine that the site or sites provide experience that is in compliance with the requirements set forth in this chapter.~~
- (d) A written oversight agreement, as specified 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 set forth in this chapter.
- ~~(e) Alternative supervision may be arranged during a supervisor's vacation or sick leave if the alternative supervision meets the requirements in this chapter and regulation.~~

§4999.72. FICTITIOUS BUSINESS NAME

Any licensed professional clinical counselor who ~~conducts a private practice~~ owns a business under utilizing a fictitious business name shall not use any name that is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

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ATTACHMENT B

Clinical Supervision Disparity between NonProfit and For-Profit Settings

(From Josey Baker, LCSW, PPSC, Medical Social Worker, The Permanente Medical Group, Inc)

This is the Regulation that we are interested in bringing to the attention of the advisory committee:

§ 4999.46.4. SUPERVISEES: LOCATION OF SERVICES; MAXIMUM NUMBER OF REGISTRANTS; OVERSIGHT AGREEMENT

(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 or volunteering in a private practice shall be supervised by an individual who is employed by, and shall practice at the same site as, the associate's employer. Alternatively, the supervisor may be an owner of the private practice. However, if the site is incorporated, the supervisor must be employed full-time at the site and be actively engaged in performing professional services at the site.

Here is a basic outline of the disparities between nonprofit and for-profit settings:

Did you know it is extremely difficult for some medical social workers in for-profit settings to get their clinical supervision hours to earn their LCSW despite holding similar job descriptions as their non-profit cohorts?	
Medical social workers in non-profit settings can hire someone to provide clinical supervision.	Medical social workers in for-profit settings can't.
Medical social workers in non-profit settings can have someone volunteer to provide clinical supervision.	Medical social workers in for-profit settings can't.
For non-profit medical social workers, a clinical supervisor must <ul style="list-style-type: none"> • be licensed in approved profession, • practiced psychotherapy for at least two years, and • completed supervision training. 	In addition to the basic clinical supervisor requirements, medical social workers in for-profit settings must find someone who works in the same building (regardless of department/specialty) for at least 20 hours/week.
Social workers in non-profit settings can pick up extra work hours anywhere and have <u>all</u> of those work hours be counted towards their clinical work experience.	Social workers in for-profit settings who pick up extra work hours within the same department with the same direct manager and director, but happens to be located at another building, would need to find a clinical supervisor for each building.

ATTACHMENT A

Clinical Supervision Disparity between NonProfit and For-Profit Settings

This is a link to the petition signed by 301 MSW who are in support of amending the regulation mentioned above

<https://www.ipetitions.com/petition/all-medical-social-workers-should-be-treated-the>

If time allows, we would like to illustrate the unforeseen implications of this regulation on ASW's in for profit settings.

Table 1
Current Bill Proposal: Requirements for Each Type of Setting

	Exempt Setting	Non-Exempt Setting Only	Entity is Both a Non-Exempt Setting AND Priv. Practice/Prof. Corporation
Limit of 6 Supervisees per Supervisor	NO	YES	YES
Supervision Via Videoconference Permitted	YES	NO	NO
Supervisor must be Employed/Contracted by the Associate's Employer or Be An Owner; Superrvisor Must Provide Psychotherapeutic Services to Clients at Same Site as the Associate	NO	NO	YES
Applicants Following 90 Day Rule Awaiting Registration Permitted to Work There	YES	YES	NO
Trainees Permitted to Work There	YES	YES	NO