



Board of Behavioral Sciences

Memo

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To: Committee Members **Date:** February 16, 2022
From: Rosanne Helms **Telephone:** (916) 574-7939
Legislative Manager
Subject: Discussion of Potential Telehealth Clarifications in Statute and Regulations

At its January 28, 2022 meeting, the Telehealth Committee directed staff to examine two possible clarifications to statute and regulations:

1. A clarification of the “face-to-face” practicum requirement in statute for marriage and family therapist (MFT) and professional clinical counselor (PCC) trainees in Business and Professions Code (BPC) §§ 4980.36 and 4999.33.
2. Amendments to clarify that the Board’s telehealth regulations (California Code of Regulations Title 16, (16 CCR), §1815.5) include MFT trainees, social work interns, and PCC trainees.

Item #1 - Practicum Clarification: “Face-to-Face” Requirement

Both MFT and PCC trainees must, as part of their qualifying degree program, gain a specified number of “face-to-face” practicum experience hours counseling individuals, families or groups. This requirement can be found in the current degree program requirements in BPC sections 4980.36(d)(1)(B)(ii) and (vi) for LMFT in-state applicants, and 4999.33(c)(3)(K) for LPCC in-state applicants.

The Board is in the process of pursuing legislation to clarify that trainees may provide services via telehealth, based on past discussions and direction of this Committee.

Now that that issue has been decided, a question arises about the meaning of “face-to-face” practicum hours required as part of the degree programs leading to LMFT and LPCC licensure. At the last Committee meeting, it was suggested that an amendment could be made to the above referenced sections to clarify that “face-to-face” practicum may include experience hours counseling via videoconferencing.

At the same time, stakeholders suggested that the Committee consider whether practicum might be an appropriate place to require at least some in-person counseling experience hours.

The Committee may wish to discuss this topic further. The following resources may be helpful:

- **Attachment A** shows the current wording in statute referencing MFT and PCC trainee “face-to-face” practicum requirements for degrees currently in progress (BPC §§4980.36(d)(1)(B)(ii) and (vi), 4999.33(c)(3)(K)).
- **Reference 1** shows the most recent standards (2016) for CACREP, which accredits some LPCC programs nationwide:
<http://www.cacrep.org/wp-content/uploads/2018/05/2016-Standards-with-Glossary-5.3.2018.pdf>

The required practicum requirements are discussed on page 15-16 of the link. In-person versus videoconferencing does not appear to be addressed, although a definition of “direct service” is provided on page 44.

On its website, CACREP notes that it is in the process of working on a 2023 update to the standards.

- **Reference 2** shows the accreditation standards for the Council on Social Work Education (CSWE)(2015). Unlike LMFTs and LPCCs, LCSWs do not have their practicum requirements spelled out in statute because CSWE sets the national standard for social work education programs via its accreditation requirements. Requirements for practicum, which CSWE refers to as “field education,” can be found on page 13 of the document. CSWE requires 900 hours of field education for master’s programs. It specifies in-person contact, but does not clarify this further:
<https://www.cswe.org/getattachment/Accreditation/Standards-and-Policies/2015-EPAS/2015EPASandGlossary.pdf.aspx>

However, in this FAQ document that CSWE provided in response to the COVID-19 pandemic, dated December 7, 2021, CSWE does address the allowability of meeting field experience hours via telehealth. This can be found at the bottom of page 4 of the following link:

<https://www.cswe.org/CSWE/media/AccreditationPDFs/DOSWA-FAQs-to-COVID-19.pdf>

Note: The reference to “face-to-face” practicum experience hours can also be found in the degree program requirements for older degrees: BPC sections 4980.37(c)(2) (LMFT in-state applicants) and 4999.32(c)(3)(I) (LPCC in-state applicants). Staff does not believe it is appropriate to change the requirements in these sections, as these degrees have already been obtained. (To qualify for licensure under the degree program requirements of these sections, the degree must have been completed by December 2018.) In addition, BPC sections 4980.78(b)(1)(C) (for LMFT out-of-state applicants) and 4999.62(b)(1)(C) (for LPCC out-of-state applicants) discuss face-to-face practicum experience hour requirements for out-of-state degrees. If the Committee decides to recommend any changes today, it should next consider the implications for these sections as well.

Item #2 – Telehealth Regulation §1815.5 – Inclusion of Trainees and Interns

As mentioned above, the Board is in the process of pursuing legislation to clarify that trainees may provide services via telehealth.

However, regulation section 1815.5, which sets the Board's standards of practice for telehealth, specifically states that a valid and current Board license or registration is needed to provide services to clients located in California via telehealth. It also specifically refers to licensees or registrants only. MFT trainees, PCC trainees, and social work interns are not mentioned at all in this section.

It may be appropriate to exclude trainees and interns from this section, since they are not under the jurisdiction of the Board yet. (They are under the jurisdiction of their school, and are permitted to practice via the law based on the fact that they are currently enrolled in their master's or doctoral degree program.) However, the Committee may wish to discuss whether it would be helpful to include trainees and interns in §1815.5.

Attachment B shows potential amendments that could be made to §1815.5 in order to include MFT and PCC trainees, and social work interns. Potential amendments are shown in red underline and strikeout.

Recommendation

Conduct an open discussion regarding the above two discussion items and direct staff on how the Committee wishes to proceed.

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Attachment A

References to Trainee “Face-to-Face” Practicum Requirements: BPC §§4980.36(d)(1)(B)(ii) and (vi), 4999.33(c)(3)(K)

Note: Sections Shown are Partial Sections

LMFT Current Requirements – In-State Applicants

Business and Professions Code (BPC) §4980.36(d)

(d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

(1) Both of the following:

(A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, including elder adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.

(B) Practicum that involves direct client contact, as follows:

(i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.

(ii) A minimum of 150 hours of **face-to-face** experience counseling individuals, couples, families, or groups.

(iii) A student must be enrolled in a practicum course while counseling clients, except as specified in subdivision (c) of Section 4980.42.

(iv) The practicum shall provide training in all of the following areas:

(I) Applied use of theory and psychotherapeutic techniques.

(II) Assessment, diagnosis, prognosis, and treatment planning.

(III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.

- (IV) Professional writing, including documentation of services, treatment plans, and progress notes.
- (V) How to connect people with resources that deliver the quality of services and support needed in the community.
- (v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low income and multicultural mental health settings.
- (vi) In addition to the 150 hours required in clause (ii), 75 hours of either of the following, or a combination thereof:
 - (I) Client centered advocacy, as defined in Section 4980.03.
 - (II) **Face-to-face** experience counseling individuals, couples, families, or groups.

LPC Current Requirements – In-State Applicants

BPC §4999.33(c)

- (c) The degree described in subdivision (b) shall be a single, integrated program that contains not less than 60 graduate semester units or 90 graduate quarter units of instruction, which shall, except as provided in subdivision (f), include all of the following:
 - (1) The equivalent of at least three semester units or four quarter units of graduate study in all of the following core content areas:
 - (A) Counseling and psychotherapeutic theories and techniques, including the counseling process in a multicultural society, an orientation to wellness and prevention, counseling theories to assist in selection of appropriate counseling interventions, models of counseling consistent with current professional research and practice, development of a personal model of counseling, and multidisciplinary responses to crises, emergencies, and disasters.
 - (B) Human growth and development across the lifespan, including normal and abnormal behavior and an understanding of developmental crises, disability, psychopathology, and situational and environmental factors that affect both normal and abnormal behavior.
 - (C) Career development theories and techniques, including career development decisionmaking models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.

- (D) Group counseling theories and techniques, including principles of group dynamics, group process components, group developmental stage theories, therapeutic factors of group work, group leadership styles and approaches, pertinent research and literature, group counseling methods, and evaluation of effectiveness.
- (E) Assessment, appraisal, and testing of individuals, including basic concepts of standardized and nonstandardized testing and other assessment techniques, norm-referenced and criterion-referenced assessment, statistical concepts, social and cultural factors related to assessment and evaluation of individuals and groups, and ethical strategies for selecting, administering, and interpreting assessment instruments and techniques in counseling.
- (F) Multicultural counseling theories and techniques, including counselors' roles in developing cultural self-awareness, identity development, promoting cultural social justice, individual and community strategies for working with and advocating for diverse populations, and counselors' roles in eliminating biases and prejudices, and processes of intentional and unintentional oppression and discrimination.
- (G) Principles of the diagnostic process, including differential diagnosis, and the use of current diagnostic tools, such as the current edition of the Diagnostic and Statistical Manual of Mental Disorders, the impact of co-occurring substance use disorders or medical psychological disorders, established diagnostic criteria for mental or emotional disorders, and the treatment modalities and placement criteria within the continuum of care.
- (H) Research and evaluation, including studies that provide an understanding of research methods, statistical analysis, the use of research to inform evidence-based practice, the importance of research in advancing the profession of counseling, and statistical methods used in conducting research, needs assessment, and program evaluation.
- (I) Professional orientation, ethics, and law in counseling, including California law and professional ethics for professional clinical counselors, professional ethical standards and legal considerations, licensing law and process, regulatory laws that delineate the profession's scope of practice, counselor-client privilege, confidentiality, the client dangerous to self or others, treatment of minors with or without parental consent, relationship between practitioner's sense of self and human values, functions and relationships with other human service providers, strategies for collaboration, and advocacy processes needed to address institutional and social barriers that impede access, equity, and success for clients.
- (J) Psychopharmacology, including the biological bases of behavior, basic classifications, indications, and contraindications of commonly prescribed psychopharmacological medications so that appropriate referrals can be made for medication evaluations and so that the side effects of those medications can be identified.

- (K) Addictions counseling, including substance abuse, co-occurring disorders, and addiction, major approaches to identification, evaluation, treatment, and prevention of substance abuse and addiction, legal and medical aspects of substance abuse, populations at risk, the role of support persons, support systems, and community resources.
 - (L) Crisis or trauma counseling, including crisis theory; multidisciplinary responses to crises, emergencies, or disasters; cognitive, affective, behavioral, and neurological effects associated with trauma; brief, intermediate, and long-term approaches; and assessment strategies for clients in crisis and principles of intervention for individuals with mental or emotional disorders during times of crisis, emergency, or disaster.
 - (M) Advanced counseling and psychotherapeutic theories and techniques, including the application of counseling constructs, assessment and treatment planning, clinical interventions, therapeutic relationships, psychopathology, or other clinical topics.
- (2) In addition to the course requirements described in paragraph (1), 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations.
- (3) Not less than six semester units or nine quarter units of supervised practicum or field study experience that involves direct client contact in a clinical setting that provides a range of professional clinical counseling experience, including the following:
- (A) Applied psychotherapeutic techniques.
 - (B) Assessment.
 - (C) Diagnosis.
 - (D) Prognosis.
 - (E) Treatment planning.
 - (F) Treatment.
 - (G) Issues of development, adjustment, and maladjustment.
 - (H) Health and wellness promotion.
 - (I) Professional writing including documentation of services, treatment plans, and progress notes.
 - (J) How to find and use resources.
 - (K) Other recognized counseling interventions.
 - (L) A minimum of 280 hours of **face-to-face** supervised clinical experience counseling individuals, families, or groups.

ATTACHMENT B
**Current Telehealth Regulations With Amendments Proposed By Telehealth
Committee**

Note: Proposed changes already discussed by the committee are shown in blue underline and strikeout. New changes not yet discussed are shown in red underline and strikeout.

California Code of Regulations (CCR) Title 16, Division 18

§ 1815.5. STANDARDS OF PRACTICE FOR TELEHEALTH.

- (a) Except as provided in subdivision (g), all persons engaging in the practice of marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling via telehealth, as defined in Section 2290.5 of the Code, with a client who is physically located in this State must have a valid and current license or registration issued by the Board.
- (b) All psychotherapy services offered by board licensees and registrants via telehealth fall within the jurisdiction of the board just as traditional face-to-face services do. Therefore, all psychotherapy services offered via telehealth are subject to the board's statutes and regulations.
- (c) Upon initiation of telehealth services, a licensee or registrant shall do the following:
 - (1) Obtain informed consent from the client consistent with Section 2290.5 of the Code.
 - (2) Inform the client of the potential risks and limitations of receiving treatment via telehealth.
 - (3) Provide the client with ~~his or her license or registration number and the type of license or registration.~~
 - (4) Document reasonable efforts made to ascertain the contact information of relevant resources, including emergency services, in the patient's geographic area.
- (d) Each time a licensee or registrant provides services via telehealth, ~~he or she~~ they shall do the following:
 - (1) Verbally obtain from the client and document the client's full name and address of present location, at the beginning of each telehealth session.
 - (2) Assess whether the client is appropriate for telehealth, including, but not limited to, consideration of the client's psychosocial situation.
 - (3) Utilize industry best practices for telehealth to ensure both client confidentiality and the security of the communication medium.

~~(e) A licensee or registrant of this state may provide telehealth services to clients located in another jurisdiction only if the California licensee or registrant meets the requirements to lawfully provide services in that jurisdiction, and delivery of services via telehealth is allowed by that jurisdiction.~~

~~(f)(e)~~ Failure to comply with these provisions shall be considered unprofessional conduct.

(f) A licensee or registrant of this state may provide telehealth services to clients located in another jurisdiction only if the California licensee or registrant meets the requirements to lawfully provide services in that jurisdiction, and delivery of services via telehealth is allowed by that jurisdiction.

(g) (1) Notwithstanding subdivision (a), the following pre-licensees may provide telehealth services to clients located in California in a non-exempt setting that is not a private practice or a professional corporation while under the jurisdiction and supervision of their school:

(A) A marriage and family therapist trainee providing services pursuant to Section 4980.42 of the Code.

(B) A social work intern providing services pursuant to Section 4996.15 of the Code.

(C) A professional clinical counselor trainee providing services pursuant to Section 4999.36 of the Code.

(2) All telehealth services provided by the pre-licensees specified in paragraph (1) above must be in compliance with subdivisions (c), (d), and (f) of this section.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code.
Reference: Sections 2290.5, 4980, 4989.50, 4996, 4999.30, and 4999.82, Business and Professions Code.