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To: Board Members

Date: September 3, 2024

From: Rosanne Helms
Legislative Manager

Subject: Proposed Legislation: Omnibus or Sunset Bill 2025

Each year, staff reviews the Board's statutes to determine if technical, minor or non-substantive amendments are needed. Typically, such amendments are placed in an omnibus bill that the Legislature runs each year, or they may be placed in the Board's sunset bill, which typically is run every 4 years.

Staff has identified two separate amendments that the Board may wish to consider for inclusion in the upcoming year's omnibus bill or sunset bill.

1. Strike BPC §4982.05 – Enforcement Statute of Limitations (Attachment A)

Background: The Board's Deputy Attorney General asked staff to consider whether Business and Professions Code (BPC) §4982.05, which details the enforcement statute of limitations for licensed marriage and family therapists (LMFTs), is necessary. This is because BPC §4990.32, which is the Board's general statute that applies to all 4 of its license types, contains very similar language.

The Board's Discipline and Probation Unit and attorney reviewed the two code sections and came to the same conclusion – BPC §4982.05 contains nearly duplicative language, and in some cases, BPC § 4990.32 contains more specific detail. Therefore, staff believes that BPC §4982.05 can be deleted.

Recommendation: Strike BPC §4982.05, as BPC §4990.32 already provides an enforcement statute of limitations for the LMFT license type.

2. Amend BPC §4996.23.1 (both versions) – Supervision Ratio for Associate Clinical Social Workers (ASWs) (Attachment B)

Background: Associates who perform more than 10 hours of certain types of supervised experience per week in a setting are required to have at least one additional hour of direct supervisor contact for that week for that setting.

It was brought to staff's attention that there is some confusion surrounding which type of experience hours trigger the required extra hour of supervision per week for Associate Clinical Social Workers (ASWs).

- For Associate Marriage and Family Therapists (AMFTs), the law is clear. The law requires an additional hour of direct supervisor contact if more than 10 hours of direct clinical counseling is performed in a week in a setting ([BPC §4980.43.2\(a\)\(3\)](#)). AMFTs are required to gain a minimum of 1,750 hours of direct clinical counseling experience to qualify for licensure ([BPC §4980.43\(c\)\(8\)](#)).
- For Associate Professional Clinical Counselors (APCCs), the law is also clear. They must gain an additional hour of direct supervisor contact if more than 10 hours of direct clinical counseling is performed in a week in a setting ([BPC §4999.46.2\(a\)\(3\)](#)). APCCs are required to gain a minimum of 1,750 hours of direct clinical counseling experience to qualify for licensure ([BPC §4999.46\(c\)\(3\)](#)).
- For ASWs, the language used in statute is less clear. Here, the law similarly requires an additional hour of direct supervisor contact if more than 10 hours of direct clinical counseling is performed in a week in a setting ([BPC §4996.23.1\(a\)\(2\)](#)). However, the statute does not specifically use the term “direct clinical counseling” when stating the required number of clinical experience hours. Instead, it requires the following ([BPC §4996.23\(d\)\(2\)](#)):

(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.

Staff was able to determine that this specific language was added to law via an omnibus bill in 2001 (Senate Bill 724, Chapter 728, Statutes of 2001). However, there is not a detailed explanation of the reasoning behind the wording in the legislative analyses for the bill.

Some confusion has emerged about whether the requirement for the additional hour of supervision for weekly hours over 10 applies to the required 2,000 hours in clinical psychosocial diagnosis, assessment and treatment, or if it only applies to the subset of 750 face-to-face psychotherapy hours in the context of clinical social work services.

Due to the fact that LMFT and LPCC statute require an additional hour of supervision per week for hours over 10 in the category of 1,750 required hours in direct clinical counseling, staff concludes that the requirement is intended to apply to the required 2,000 hours in clinical psychosocial diagnosis, assessment and treatment. This interpretation is the most

consistent with the other 2 license types, and in line with the public protection intent to ensure that an associate providing clinical services receives adequate supervision. Therefore, staff believes BPC §4996.23.1(a)(2) should be amended to clarify this.

Recommendation: Amend BPC §4996.23.1(a)(2) as follows, in order to clarify that the additional hour of supervision per week for hours over 10 per week per setting applies to the required 2,000 experience hours in clinical psychosocial diagnosis, assessment, and treatment that is referenced in BPC §4996.23(d)(2):

(2) An associate gaining experience who performs more than 10 hours ~~of direct clinical counseling of services pursuant to paragraph (2) of subdivision (d) of Section 4996.23~~ in a week in any setting shall receive at least one additional hour of direct supervisor contact for that setting.

Note: BPC §4996.23.1 has two sections: one sunsetting on January 1, 2026, and another becoming effective January 1, 2026, due to past legislation allowing supervision via videoconferencing in all settings. Both sections need to be amended to preserve the change being made to law.

Policy and Advocacy Committee Discussion

At its August 9, 2024 meeting, the Policy and Advocacy Committee directed staff to bring this proposal to the Board for consideration as a legislative proposal.

Recommendation

Conduct an open discussion about the proposed amendments. Direct staff to make any discussed changes, and any non-substantive changes, and to pursue as a legislative proposal.

Attachments

Attachment A: BPC §§4982.05 and 4990.32 – Enforcement Statute of Limitations

Attachment B: BPC §§4996.23 and 4996.23.1 – Supervision Ratio for Associate Clinical Social Workers

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ATTACHMENT A
BPC §§ 4982.05 AND 4990.32
ENFORCEMENT STATUTE OF LIMITATIONS

STRIKE BUSINESS AND PROFESSIONS CODE (BPC) §4982.05. Enforcement Statute of Limitations

~~(a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

~~(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.~~

~~(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.~~

~~(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action, or within 10 years after the act or omission alleged as the grounds for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.~~

~~(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

~~(g) For purposes of this section, "discovers" means the later of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:~~

~~(1) The date the board received a complaint or report describing the act or omission.~~

~~(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.~~

~~(3) The date the board receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.~~

**BPC §4990.32. (Shown for Reference Only; No Proposed Amendments)
Enforcement Statute of Limitations**

(a) Except as otherwise provided in this section, an accusation filed pursuant to Section 11503 of the Government Code against a licensee or registrant under the chapters the board administers and enforces shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitations period provided by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) An accusation alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action or within 10 years after the act or omission alleged as the grounds for disciplinary action occurred, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(e) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (d) shall be tolled until the minor reaches the age of majority. However, if the board discovers an alleged act of sexual contact with a minor under Section 261, 286, 287, 288, 288.5, or 289 of, or former Section 288a of, the Penal Code after the limitations periods described in this subdivision have otherwise expired, and there is independent evidence that corroborates the allegation, an accusation shall be filed within three years from the date the board discovers that alleged act.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

(g) For purposes of this section, “discovers” means the latest of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:

(1) The date the board received a complaint or report describing the act or omission.

(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.

(3) The date the board receives from the complainant a written release of information pertaining to the complainant’s diagnosis and treatment.

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ATTACHMENT B
BPC §§ 4996.23 and 4996.23.1
SUPERVISION RATIO FOR ASSOCIATE CLINICAL SOCIAL WORKERS

BPC §4996.23.

(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) Postdegree hours of experience gained before the 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.

BPC §4996.23.1. (INOPERATIVE JANUARY 1, 2026)

(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 of services pursuant to paragraph (2) of subdivision (d) of Section 4996.23 in a week in any setting shall receive at least one additional hour of direct supervisor contact for that setting.

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

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

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

(C) 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.

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

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

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

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

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

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

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

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

(i) Notwithstanding any other law, once the required number of experience hours are gained, an associate clinical social worker or applicant for licensure shall receive a minimum of one hour of direct supervisor contact per week for each practice setting in which direct clinical counseling is performed. Once the required number of experience hours are gained, further supervision for nonclinical practice, as described in paragraph (3) of subdivision (d) of Section 4996.23, shall be at the supervisor’s discretion.

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

BPC §4996.23.1. (OPERATIVE JANUARY 1, 2026)

(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 of services pursuant to paragraph (2) of subdivision (d) of Section 4996.23 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 of this chapter.

(g) Notwithstanding subdivision (b), a supervisee working in 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.

(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.

(i) This section shall become operative on January 1, 2026.