



Board of Behavioral Sciences

Memo

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To: Board Members

Date: October 22, 2021

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Subject: Discussion of Allowance of Supervision Via Videoconferencing

Summary

This discussion will focus on whether supervision via videoconferencing should continue to be allowed only in exempt settings or if it should also be allowed in all settings. The Telehealth Committee recently considered this issue and drafted a recommendation in the form of proposed amendments to current law. At its October 1, 2021 meeting, the Telehealth Committee directed staff to bring the proposal to the Policy and Advocacy Committee for consideration.

Supervision via Videoconferencing

Current law only permits associates to be supervised via videoconferencing if they are working in an exempt setting (a governmental entity, a school, college, or university, or an institution that is nonprofit and charitable).

In addition, right now the law only explicitly permits associates working in an exempt setting to obtain supervision via videoconferencing. The Board recently pursued an amendment, via its setting definition bill (AB 690), that changes the law to instead permit supervisees working in an exempt setting to obtain supervision via videoconferencing. (The new language is effective January 1, 2022) Today's proposal would clarify that trainees in exempt settings can also receive supervision via videoconference.

The COVID-19 state of emergency has raised questions about whether further change to the law is warranted. Due to the state of emergency, therapy has shifted from largely in-person to telehealth, and it remains to be seen to what degree this will continue after the emergency has passed. In the interest of public health, the Director of the Department of Consumer Affairs (DCA) issued a law waiver that currently allows supervision to be via videoconference, regardless of the setting. However, that waiver will expire once it is safe for in-person activities to resume.

Based on these questions, the Telehealth Committee reviewed research and conducted a survey of its stakeholders regarding the subject of supervision via videoconferencing. That committee ultimately ended up considering two options:

1. **Option One:** 50% In-Person Supervision Required
2. **Option Two:** Supervision via Videoconference Allowed with First Meeting In-Person (This is the option that the Telehealth Committee decided to move forward with, and proposed language is shown in **Attachment A.**)

Proposed Language: Supervision Via Videoconference Allowed with First Meeting In-Person (Attachment A)

This proposal does the following:

- Clarifies that face-to-face direct supervisor contact means either in-person, or via two-way, real time videoconferencing.
- Requires that a supervisor must conduct an initial in-person meeting with a supervisee within 60 days of the commencement of any supervision with a new supervisee, in all settings.
- Requires that during the initial in-person meeting, the supervisor must assess the appropriateness of allowing the supervisee to gain experience hours via telehealth, and the appropriateness of the supervisee to receive supervision via videoconferencing. The results of the assessment must be documented.
- Includes a sunset date for the initial-in person meeting requirement of January 1, 2025. Unless the sunset date is deleted or extended, nonexempt settings will once again be required to have in-person supervision, as is currently the law. The Telehealth Committee decided to have a sunset date in place in order to balance the need to move forward on this issue, with the need to take more time to consider the implications for various types of settings, and possibly fine-tune the law as needed.

Implications for Out-of-State Practice

Over the course of this discussion, the Committee and stakeholders should keep in mind that allowing supervision via videoconferencing has implications for the setting where the therapy is taking place. For example, right now, the videoconferencing prohibition in non-exempt settings ensures a supervisee is not working entirely remotely from another state. Therefore, the Telehealth Committee will continue to discuss telehealth and supervision via videoconferencing in the context of permitted practice settings and out-of-state practice at future meetings.

Examples of questions to be considered are as follows:

- Where should the supervisee be located while telehealth therapy is taking place?
- Should an associate temporarily or permanently located in another state or country be able to practice with clients located in California? (This would assume they are registered as an associate in this state and have a California-licensed supervisor, who they are seeing via videoconference)
- Should a trainee temporarily or permanently located in another state or country be allowed to practice with clients located in California? (This would assume they have permission from their school and have a California-licensed supervisor, who they are seeing via videoconference (if an MFT trainee)).
- Should an associate or trainee located in another state or country be permitted to count experience hours for practice with clients who are located in that other state or country, if they follow the rules of the other jurisdiction and have supervision by a California-licensed supervisor who meets the Board's supervision requirements?

Previous Discussion

At its October 1, 2021 meeting, the Telehealth Committee directed staff to take the language shown in **Attachment A** to the Policy and Advocacy Committee for consideration and discussion.

At its October 20, 2021 meeting, the Policy and Advocacy Committee directed staff to bring the language in **Attachment A** to the Board for consideration as a legislative proposal.

Recommendation

Conduct an open discussion about the draft language contained in **Attachment A** regarding supervision via videoconferencing. Direct staff to make any discussed changes and any non-substantive changes, and pursue as a legislative proposal (urgency if possible).

Attachments

Attachment A: Proposed Language: Supervision Via Videoconference Allowed with First Meeting In-Person

Reference 1: [State-by-State Online Clinical Supervision Rules \(Source: Motivo\)](#)

Reference 2: ASWB Comparison of U.S. Clinical Social Work Supervised Experience License Requirements (as of 9-23-19) (See p. 8-10) <https://www.aswb.org/wp-content/uploads/2021/01/Comparison-of-clinical-supervision-requirements-9.23.19.pdf>

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Attachment A
Proposed Language
Supervision via Videoconference Allowed with First Meeting In-Person

Reference Sections: BPC §§4980.43.2, 4996.23.1, 4999.46.2

*Note: Red underline/strikeout is language being proposed via legislation this year.
Blue underline/strikeout is newly proposed language for discussion today.*

LMFTs

AMEND Business and Professions Code (BPC) § 4980.43.2. (As proposed in AB 690)

(a) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph ~~(9)~~ (10) of subdivision ~~(a)~~ (c) of Section 4980.43, direct supervisor contact shall occur as follows:

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

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

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

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

(b) 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) Face-to-face direct supervisor contact as described in subdivision (b) shall be in-person contact, shall be via two-way, real-time videoconferencing, or shall be some combination of these. The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.

(d) Notwithstanding subdivision (c), on and after January 1, 2023, within 60 days of the commencement of any supervision, a supervisor shall conduct an initial in-person meeting with each new supervisee. During that meeting, the supervisor shall assess both of the following:

(i) The appropriateness of allowing the supervisee to gain experience hours via telehealth.

(ii) The appropriateness of allowing the supervisee to receive supervision via two-way, real-time videoconferencing.

The results of this in-person assessment shall be documented by the supervisor.

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

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

~~(d) (e) Notwithstanding subdivision (b), a supervisee working in 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.~~

~~(e) (fg)~~ 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) (10)~~ of subdivision ~~(a) (c)~~ of Section 4980.43, shall be at the supervisor's discretion.

(h) Subdivisions (c) and (d) of this section shall remain in effect only until January 1, 2025, and as of that date are repealed and face-to-face direct supervisor contact in any nonexempt setting shall be in-person, unless a later enacted statute, that is enacted before January 1, 2025, deletes or extends that date.

LCSWs

AMEND BPC §4996.23.1. (as proposed in AB 690)

(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) Face-to-face direct supervisor contact as described in subdivision (b) shall be in-person contact, shall be via two-way, real-time videoconferencing, or shall be some combination of these. The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.

(d) Notwithstanding subdivision (c), on and after January 1, 2023, within 60 days of the commencement of any supervision, a supervisor shall conduct an initial in-person meeting with each new supervisee. During that meeting, the supervisor shall assess both of the following:

(i) The appropriateness of allowing the supervisee to gain experience hours via telehealth.

(ii) The appropriateness of allowing the supervisee to receive supervision via two-way, real-time videoconferencing.

The results of this in-person assessment shall be documented by the supervisor.

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

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

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

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

~~(f) (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.~~

~~(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.

(i) Subdivisions (c) and (d) of this section shall remain in effect only until January 1, 2025, and as of that date are repealed and face-to-face direct supervisor contact in any nonexempt setting shall be in-person, unless a later enacted statute, that is enacted before January 1, 2025, deletes or extends that date.

LPCCs

AMEND BPC §4999.46.2 (as proposed in AB 690)

(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) Face-to-face direct supervisor contact as described in subdivision (b) shall be in-person contact, shall be via two-way, real-time videoconferencing, or shall be some combination of these. The supervisor shall be responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information.

(d) Notwithstanding subdivision (c), on and after January 1, 2023, within 60 days of the commencement of any supervision, a supervisor shall conduct an initial in-person meeting with each new supervisee. During that meeting, the supervisor shall assess both of the following:

(i) The appropriateness of allowing the supervisee to gain experience hours via telehealth.

(ii) The appropriateness of allowing the supervisee to receive supervision via two-way, real-time videoconferencing.

The results of this in-person assessment shall be documented by the supervisor.

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

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

~~(d) (e) Notwithstanding subdivision (b), a supervisee working in 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) (fg)~~ 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.

(h) Subdivisions (c) and (d) of this section shall remain in effect only until January 1, 2025, and as of that date are repealed and face-to-face direct supervisor contact in any nonexempt setting shall be in-person, unless a later enacted statute, that is enacted before January 1, 2025, deletes or extends that date.