



Board of Behavioral Sciences

Memo

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To: Board Members **Date:** February 1, 2022
From: Rosanne Helms **Telephone:** (916) 574-7939
Legislative Manager
**Subject: Discussion of Potential Amendments to Supervision Via
Videoconferencing Bill Proposal**

Background

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). The Board is pursuing a bill proposal to allow supervision via videoconferencing in all settings.

The text of the current proposal, which the Board approved at its November 5, 2021 meeting, is shown **Attachment B** and does the following:

- Clarifies that face-to-face direct supervisor contact means either in-person, or contact via two-way, real time videoconferencing.
- Requires that a supervisor must conduct a meeting with a new supervisee within 60 days of the commencement of any supervision, in all settings.
- Requires that during the 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 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.

The Board should review the language drafted by Legislative Counsel, shown in **Attachment A**, as it contains wording changes to the language that was originally approved by the Board. Staff believes the wording changes are minor, but not

necessarily nonsubstantive. (For reference, the language originally approved by the Board at its November 5, 2021 meeting is shown in **Attachment B.**)

Potential Amendments to the Bill

The Board now has an author for the bill proposal, and the author is willing to run the proposal as urgency legislation. However, the author's office, as well as the Assembly Business and Professions' committee consultant and Legislative Counsel, have reviewed the bill's language and suggested the Board consider three amendments to the language, as follows).

1. POTENTIAL AMENDMENT #1: Consider clarifying the term "appropriateness" (Suggested by the Author's Office and the Assembly Business and Professions Committee Consultant)

The committee consultant and the author of the bill suggested considering clarifying the term "appropriateness." That term is used in the bill as follows:

[BPC §§4980.43.2, 4996.23.1, 4999.46.2](#)

(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 do both of the following:*

(A) Gain experience hours via telehealth.

(B) Receive supervision via two-way, real-time videoconferencing.

(2) The supervisor shall document the results of the assessment made pursuant to paragraph (1).

To some extent, the "appropriateness" might best be left to the professional judgement of the supervisor. BPC [4980.43.1](#), for example, lists a supervisor's responsibilities, and several of those responsibilities rely on the supervisor using their professional judgement.

However, some additional guidance may be helpful. Two options are as follows (possible amendments shown in red):

OPTION ONE

This option simply defines what appropriateness entails for each activity.

[BPC §§4980.43.2, 4996.23.1, 4999.46.2](#)

(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 do both of the following:*

(A) Gain experience hours via telehealth. The assessment of appropriateness shall include, but is not limited to, the abilities of the supervisee, the appropriateness of telehealth for the client, the preferences of the client, and the privacy of the distant site and originating site¹.

(B) 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).

OPTION TWO

This option deletes the requirement that within 60 days, the supervisor shall assess the appropriateness of allowing the supervisee to gain experience hours via telehealth. This is based on feedback from stakeholders that defining the appropriateness of this may be premature at this time, as the Telehealth Committee is still exploring appropriate telehealth settings. Moreover, the intent of this bill is to focus on supervision via videoconferencing. A requirement to assess supervisee appropriateness for telehealth could be added into law at a later time if the Telehealth Committee determined, upon the completion of its work, that it is appropriate.

BPC §§4980.43.2, 4996.23.1, 4999.46.2

(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 do both of the following: 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.

~~*(A) Gain experience hours via telehealth.*~~

~~*(B) Receive supervision via two-way, real-time videoconferencing.*~~

(2) The supervisor shall document the results of the assessment made pursuant to paragraph (1).

¹ "Distant site," as defined in BPC [§2290.5](#), is the location of the health care provider while providing telehealth services. "Originating site," as defined in the same statute, is the location of the patient while telehealth is being provided.

2. POTENTIAL AMENDMENT #2: Consider Stating What Happens if the Supervisor's Assessment Determines that Telehealth and/or Supervision via Videoconferencing is Not Appropriate (Suggested During Discussion with Legislative Counsel)

Legislative Counsel suggested the Board potentially consider what should happen if the supervisor determines supervision via videoconference is not appropriate. This could look something like the following.

(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.

3. POTENTIAL AMENDMENT #3: Consider extending the January 1, 2025 expiration date by one year (Suggested by the Assembly Business and Professions Committee Consultant)

The committee consultant noted that the Board's next sunset date is January 1, 2026. If the Board extended the expiration date in the bill from January 1, 2025 to January 1, 2026, then the expiration date would coincide with the sunset date. Any extension or fine-tuning of the law could then potentially be discussed and included as part of the Board's next sunset bill.

Recommendation

- Conduct an open discussion about the language drafted by Legislative Counsel shown in **Attachment A**, and determine if the Board approves of that language, as drafted. (For reference, the original Board-approved language is shown in **Attachment B**.)
- Discuss if the Board wishes to make any of the potential amendments discussed above to the language in **Attachment A**. Direct staff to make any discussed changes and any non-substantive changes, and make the amendments to the bill.

Attachments

Attachment A: Legislative Counsel Drafted Language: Supervision via Videoconference

Attachment B: Previous Supervision via Videoconference Proposed language approved by the Board at its November 5, 2021 Meeting (included for reference)

ATTACHMENT A

california legislature—2021–22 regular session

ASSEMBLY BILL

No. 1758

Introduced by Assembly Member Aguiar-Curry

February 2, 2022

An act to amend, repeal, and add Sections 4980.43.2, 4996.23.1, and 4999.46.2 of the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

legislative counsel's digest

AB 1758, as introduced, Aguiar-Curry. Board of Behavioral Sciences: marriage and family therapists: clinical social workers: professional clinical counselors: supervision of applicants for licensure via videoconferencing.

Existing law establishes the Board of Behavioral Sciences within the Department of Consumer Affairs, and requires the board to regulate various registrants and licensees under the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act. A violation of any of those acts is a misdemeanor.

Under those acts, applicants for licensure are required to comply with specified educational and experience requirements, including, but not limited to, hours of supervised experience and direct supervisor contact. Existing law defines “one hour of direct supervisor contact” for purposes of those acts to mean one hour of face-to-face contact between the supervisor and the supervisee or supervisees, as specified. Existing law authorizes a supervisee working in certain exempt settings to obtain the required weekly direct supervisor contact via 2-way, real-time videoconferencing.

This bill, instead, would define “face-to-face contact” for purposes of the definition of “one hour of direct supervisor contact” to mean in-person contact, contact via 2-way, real-time videoconferencing, or some combination of these. The bill would make the supervisor responsible for ensuring compliance with federal and state laws relating to confidentiality of patient health information. The bill would require a supervisor within 60 days of the commencement of supervision to conduct a meeting with the supervisee during which the supervisor is required to assess the appropriateness of allowing the supervisee to gain experience hours via telehealth and to receive supervision via 2-way, real-time videoconferencing. The bill would require the supervisor to document the results of that assessment. Because the bill would expand the scope of a crime, the bill would impose a state-mandated local program. The bill would repeal its provisions on January 1, 2025.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4980.43.2 of the Business and Professions
- 2 Code is amended to read:
- 3 4980.43.2. (a) Except for experience gained by attending
- 4 workshops, seminars, training sessions, or conferences, as
- 5 described in paragraph (10) of subdivision (c) of Section 4980.43,
- 6 direct supervisor contact shall occur as follows:
- 7 (1) Supervision shall include at least one hour of direct
- 8 supervisor contact in each week for which experience is credited
- 9 in each work setting.
- 10 (2) A trainee shall receive an average of at least one hour of
- 11 direct supervisor contact for every five hours of direct clinical
- 12 counseling performed each week in each setting. For experience
- 13 gained on or after January 1, 2009, no more than six hours of

1 supervision, whether individual, triadic, or group, shall be credited
2 during any single week.

3 (3) An associate gaining experience who performs more than
4 10 hours of direct clinical counseling in a week in any setting shall
5 receive at least one additional hour of direct supervisor contact for
6 that setting. For experience gained on or after January 1, 2009, no
7 more than six hours of supervision, whether individual, triadic, or
8 group, shall be credited during any single week.

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

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

14 ~~(1)~~

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

17 ~~(2)~~

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

20 ~~(3)~~

21 (C) Group supervision, which means two hours of face-to-face
22 contact between one supervisor and no more than eight supervisees.
23 Segments of group supervision may be split into no less than one
24 continuous hour. A supervisor shall ensure that the amount and
25 degree of supervision is appropriate for each supervisee.

26 (2) *For purposes of this subdivision, "face-to-face contact"*
27 *means in-person contact, contact via two-way, real-time*
28 *videoconferencing, or some combination of these.*

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

32 (d) (1) *Within 60 days of the commencement of supervision, a*
33 *supervisor shall conduct a meeting with the supervisee during*
34 *which the supervisor shall assess the appropriateness of allowing*
35 *the supervisee to do both of the following:*

36 (A) *Gain experience hours via telehealth.*

37 (B) *Receive supervision via two-way, real-time*
38 *videoconferencing.*

39 (2) *The supervisor shall document the results of the assessment*
40 *made pursuant to paragraph (1).*

1 ~~(e)~~

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

4 ~~(d)~~

5 (f) Alternative supervision may be arranged during a supervisor's
6 vacation or sick leave if the alternative supervision meets the
7 requirements of this chapter.

8 ~~(e) Notwithstanding subdivision (b), a supervisee working in~~
9 ~~an exempt setting described in Section 4980.01 may obtain the~~
10 ~~required weekly direct supervisor contact via two-way, real-time~~
11 ~~videoconferencing. The supervisor shall be responsible for ensuring~~
12 ~~compliance with federal and state laws relating to confidentiality~~
13 ~~of patient health information.~~

14 ~~(f)~~

15 (g) Notwithstanding any other law, once the required number
16 of experience hours are gained, associates and applicants for
17 licensure shall receive a minimum of one hour of direct supervisor
18 contact per week for each practice setting in which direct clinical
19 counseling is performed. Once the required number of experience
20 hours are gained, further supervision for nonclinical practice, as
21 defined in paragraph (10) of subdivision (c) of Section 4980.43,
22 shall be at the supervisor's discretion.

23 (h) *This section shall remain in effect only until January 1, 2025,*
24 *and as of that date is repealed.*

25 SEC. 2. Section 4980.43.2 is added to the Business and
26 Professions Code, to read:

27 4980.43.2. (a) Except for experience gained by attending
28 workshops, seminars, training sessions, or conferences, as
29 described in paragraph (10) of subdivision (c) of Section 4980.43,
30 direct supervisor contact shall occur as follows:

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

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

1 (3) An associate gaining experience who performs more than
2 10 hours of direct clinical counseling in a week in any setting shall
3 receive at least one additional hour of direct supervisor contact for
4 that setting. For experience gained on or after January 1, 2009, no
5 more than six hours of supervision, whether individual, triadic, or
6 group, shall be credited during any single week.

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

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

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

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

16 (3) Group supervision, which means two hours of face-to-face
17 contact between one supervisor and no more than eight supervisees.
18 Segments of group supervision may be split into no less than one
19 continuous hour. A supervisor shall ensure that the amount and
20 degree of supervision is appropriate for each supervisee.

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

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

26 (e) Notwithstanding subdivision (b), a supervisee working in
27 an exempt setting described in Section 4980.01 may obtain the
28 required weekly direct supervisor contact via two-way, real-time
29 videoconferencing. The supervisor shall be responsible for ensuring
30 compliance with federal and state laws relating to confidentiality
31 of patient health information.

32 (f) Notwithstanding any other law, once the required number
33 of experience hours are gained, associates and applicants for
34 licensure shall receive a minimum of one hour of direct supervisor
35 contact per week for each practice setting in which direct clinical
36 counseling is performed. Once the required number of experience
37 hours are gained, further supervision for nonclinical practice, as
38 defined in paragraph (10) of subdivision (c) of Section 4980.43,
39 shall be at the supervisor’s discretion.

40 (g) This section shall become operative on January 1, 2025.

SEC. 3. Section 4996.23.1 of the Business and Professions Code is amended to read:

4996.23.1. (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) *(1)* For purposes of this chapter, “one hour of direct supervisor contact” means any of the following:

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

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

~~(3)~~
(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 do both of the following:

(A) Gain experience hours via telehealth.

(B) Receive supervision via two-way, real-time videoconferencing.

1 (2) *The supervisor shall document the results of the assessment*
2 *made pursuant to paragraph (1).*

3 ~~(e)~~

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

6 ~~(d)~~

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

10 ~~(e)~~

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

14 ~~(f)~~

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

18 ~~(g) Notwithstanding subdivision (b), a supervisee working in~~
19 ~~an exempt setting described in Section 4996.14 may obtain the~~
20 ~~required weekly direct supervisor contact via two-way, real-time~~
21 ~~videoconferencing. The supervisor shall be responsible for ensuring~~
22 ~~compliance with state and federal laws relating to confidentiality~~
23 ~~of patient health information.~~

24 ~~(h)~~

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

33 (j) *This section shall remain in effect only until January 1, 2025,*
34 *and as of that date is repealed.*

35 SEC. 4. Section 4996.23.1 is added to the Business and
36 Professions Code, to read:

37 4996.23.1. (a) Except for experience gained by attending
38 workshops, seminars, training sessions, or conferences, as
39 described in paragraph (3) of subdivision (d) of Section 4996.23,
40 direct supervisor contact shall occur as follows:

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

4 (2) An associate gaining experience who performs more than
5 10 hours of direct clinical counseling in a week in any setting shall
6 receive at least one additional hour of direct supervisor contact for
7 that setting.

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

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

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

14 (3) Group supervision, which means two hours of face-to-face
15 contact between one supervisor and no more than eight supervisees.
16 Segments of group supervision may be split into no less than one
17 continuous hour. A supervisor shall ensure that the amount and
18 degree of supervision is appropriate for each supervisee.

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

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

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

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

30 (g) Notwithstanding subdivision (b), a supervisee working in
31 an exempt setting described in Section 4996.14 may obtain the
32 required weekly direct supervisor contact via two-way, real-time
33 videoconferencing. The supervisor shall be responsible for ensuring
34 compliance with state and federal laws relating to confidentiality
35 of patient health information.

36 (h) Notwithstanding any other law, once the required number
37 of experience hours are gained, an associate clinical social worker
38 or applicant for licensure shall receive a minimum of one hour of
39 direct supervisor contact per week for each practice setting in
40 which direct clinical counseling is performed. Once the required

1 number of experience hours are gained, further supervision for
2 nonclinical practice, as described in paragraph (3) of subdivision
3 (d) of Section 4996.23, shall be at the supervisor's discretion.

4 (i) This section shall become operative on January 1, 2025.

5 SEC. 5. Section 4999.46.2 of the Business and Professions
6 Code is amended to read:

7 4999.46.2. (a) Except for experience gained by attending
8 workshops, seminars, training sessions, or conferences, as
9 described in paragraph ~~(5)~~ (4) of subdivision (c) of Section
10 4999.46, direct supervisor contact shall occur as follows:

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

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

20 (3) An associate gaining experience who performs more than
21 10 hours of direct clinical counseling in a week in any setting shall
22 receive at least one additional hour of direct supervisor contact for
23 that setting. For experience gained after January 1, 2009, no more
24 than six hours of supervision, whether individual supervision,
25 triadic supervision, or group supervision, shall be credited during
26 any single week.

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

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

32 ~~(1)~~

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

35 ~~(2)~~

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

38 ~~(3)~~

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

1 Segments of group supervision may be split into no less than one
2 continuous hour. The supervisor shall ensure that the amount and
3 degree of supervision is appropriate for each supervisee.

4 (2) *For purposes of this subdivision, "face-to-face contact"*
5 *means in-person contact, contact via two-way, real-time*
6 *videoconferencing, or some combination of these.*

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

10 (d) (1) *Within 60 days of the commencement of supervision, a*
11 *supervisor shall conduct a meeting with the supervisee during*
12 *which the supervisor shall assess the appropriateness of allowing*
13 *the supervisee to do both of the following:*

14 (A) *Gain experience hours via telehealth.*

15 (B) *Receive supervision via two-way, real-time*
16 *videoconferencing.*

17 (2) *The supervisor shall document the results of the assessment*
18 *made pursuant to paragraph (1).*

19 (e)

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

22 (d)

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

26 ~~(e) Notwithstanding subdivision (b), a supervisee working in~~
27 ~~an exempt setting described in Section 4999.22 may obtain the~~
28 ~~required weekly direct supervisor contact via two-way, real-time~~
29 ~~videoconferencing. The supervisor shall be responsible for ensuring~~
30 ~~compliance with federal and state laws relating to confidentiality~~
31 ~~of patient health information.~~

32 (f)

33 (g) *Notwithstanding any other law, once the required number*
34 *of experience hours are gained, associates and applicants for*
35 *licensure shall receive a minimum of one hour of direct supervisor*
36 *contact per week for each practice setting in which direct clinical*
37 *counseling is performed. Once the required number of experience*
38 *hours are gained, further supervision for nonclinical practice, as*
39 *defined in paragraph (5) (4) of subdivision (c) of Section 4999.46,*
40 *shall be at the supervisor's discretion.*

1 *(h) This section shall remain in effect only until January 1,*
2 *2025, and as of that date is repealed.*

3 SEC. 6. Section 4999.46.2 is added to the Business and
4 Professions Code, to read:

5 4999.46.2. (a) Except for experience gained by attending
6 workshops, seminars, training sessions, or conferences, as
7 described in paragraph (4) of subdivision (c) of Section 4999.46,
8 direct supervisor contact shall occur as follows:

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

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

18 (3) An associate gaining experience who performs more than
19 10 hours of direct clinical counseling in a week in any setting shall
20 receive at least one additional hour of direct supervisor contact for
21 that setting. For experience gained after January 1, 2009, no more
22 than six hours of supervision, whether individual supervision,
23 triadic supervision, or group supervision, shall be credited during
24 any single week.

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

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

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

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

34 (3) Group supervision, which means two hours of face-to-face
35 contact between one supervisor and no more than eight supervisees.
36 Segments of group supervision may be split into no less than one
37 continuous hour. The supervisor shall ensure that the amount and
38 degree of supervision is appropriate for each supervisee.

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

1 (d) Alternative supervision may be arranged during a
2 supervisor's vacation or sick leave if the alternative supervision
3 meets the requirements in this chapter.

4 (e) Notwithstanding subdivision (b), a supervisee working in
5 an exempt setting described in Section 4999.22 may obtain the
6 required weekly direct supervisor contact via two-way, real-time
7 videoconferencing. The supervisor shall be responsible for ensuring
8 compliance with federal and state laws relating to confidentiality
9 of patient health information.

10 (f) Notwithstanding any other law, once the required number
11 of experience hours are gained, associates and applicants for
12 licensure shall receive a minimum of one hour of direct supervisor
13 contact per week for each practice setting in which direct clinical
14 counseling is performed. Once the required number of experience
15 hours are gained, further supervision for nonclinical practice, as
16 defined in paragraph (4) of subdivision (c) of Section 4999.46,
17 shall be at the supervisor's discretion.

18 (g) This section shall become operative on January 1, 2025.

19 SEC. 7. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 SEC. 8. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety within
30 the meaning of Article IV of the California Constitution and shall
31 go into immediate effect. The facts constituting the necessity are:

32 To facilitate the continued provision of care to individuals
33 affected by the coronavirus disease 2019 (COVID-19) outbreak
34 and to enable applicants for licensure as marriage and family
35 therapists, clinical social workers, and professional clinical
36 counselors and their supervisors with disabilities or health concerns
37 or who live in rural areas to continue their training and education

- 1 during the crisis of the COVID-19 state of emergency, it is
- 2 necessary for this act to take effect immediately.

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Attachment B
Board-Approved Language
Supervision via Videoconferencing Amendments

Reference Sections: BPC §§4980.43.2, 4996.23.1, 4999.46.2

Note: Red underline/strikeout is language was chaptered via legislation (AB 690) this year and goes into effect 1/1/2022.

Blue underline/strikeout is newly proposed language.

LMFTs

AMEND Business and Professions Code (BPC) § 4980.43.2. (As chaptered 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), within 60 days of the commencement of any supervision, a supervisor shall conduct a 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 assessment shall be documented by the supervisor.

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

~~(df)~~ 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 chaptered 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), within 60 days of the commencement of any supervision, a supervisor shall conduct a 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 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.

~~(fn)~~ *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.

(j) 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 chaptered 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), within 60 days of the commencement of any supervision, a supervisor shall conduct a 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 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.