

LEGAL & ETHICAL ISSUES IN SUPERVISION

Michael Griffin, JD, LCSW, CAMFT Staff Attorney
Saturday, November 8, 2014 9:00 AM-4:30 PM

Learning Objectives¹

This workshop is six hours in length. It may be used to fulfill a portion of the requirements for becoming a CAMFT Certified Supervisor, if that is your intent. The workshop satisfies the six-hour continuing education requirement for supervisors of marriage and family therapist trainees and interns. For individuals who plan to supervise associate clinical social workers, the workshop would satisfy six of the fifteen required hours of continuing education in supervision.

The workshop will review the requirements for licensure as a marriage and family therapist, clinical social worker, professional clinical counselor, or psychologist in California along with legal and ethical standards for supervisors of aspiring licensees in each of these professions. The workshop will also review key legal and ethical issues that are applicable to psychotherapists in general, including: Scope of competency /scope of practice; standards of care; confidentiality/exceptions to confidentiality; confidentiality involving minors, couples and families; psychotherapist-patient privilege; documentation/record keeping, access to records, advertising/required disclosures, conflicts of interest, and related topics. We will also discuss the topic of employing interns, issues involving fees and insurance, supervisor/supervisee boundaries and recommendations for avoiding problems related to the actions of a supervisee.

In order to cover such a wide-range of issues, it will be necessary to review a large number of legal and ethical standards. Whenever possible, examples of treatment scenarios, and/or complaints to licensing boards and ethics committees will be used to illustrate the standards being discussed.

THE "LICENSING LAWS" are comprised of statutes and regulations.

The laws that are specifically intended to govern the conduct of health care professionals in every state are known as the "licensing laws." All California statutes can be found at: <http://leginfo.legislature.ca.gov/faces/codes.xhtml> California laws which are applicable to marriage and family therapists, clinical social workers, and professional clinical counselors are accessible via the

¹ The workshop does not provide a discussion of every section of law or regulation that may be applicable to supervision. Excerpts of laws, regulations and ethical codes may be utilized for discussion purposes and the reader should not assume that every section of a particular law, regulation or ethical code is included in this handout. The information in this workshop is offered for educational purposes and should not be considered to be legal advice or a substitute for legal consultation. It is always prudent to check to see whether a particular law, or ethical standard may have changed.

Board of Behavioral Sciences website, at:
<http://www.bbs.ca.gov/pdf/publications/lawsregs.pdf>

California laws applicable to psychologists are available at:
<http://www.psychboard.ca.gov>

The following sections of the Business & Professions Code (statutes) and the Code of Regulations contain the licensing laws.

Marriage and Family Therapists:

§§4980-4989	<u>Business & Professions Code</u>
§§1829-1848	<u>Code of Regulations</u>

Clinical Social Workers:

§§4991-4998.5	<u>Business & Professions Code,</u>
§§1870-1881	<u>Code of Regulations</u>

Professional Clinical Counselors:

§§4999.10-4999.129	<u>Business & Professions Code</u>
§§1820-1823	<u>Code of Regulations</u>

Practice of Psychology:

§§2900-2999	<u>Business & Professions Code</u>
§§1380-1397.71	<u>Code of Regulations</u>

Should therapists be afraid to practice?

Although it is true that any therapist could be the subject of a complaint to a regulatory Board, the commonly expressed belief that therapists are in constant danger of a disciplinary action by the BBS is not supported. The incidence of complaints and disciplinary actions against California therapists is extremely low, relative to the total number of practitioners.

California Therapists

	(as of 6/30/14)
Assoc. Clinical Social Workers	14,751
MFT Interns	22,275
Licensed Clinical Social Workers	21,769
Licensed Marriage & Family Therapists	36,600
Licensed Educational Psychologists	2088
Licensed Professional Clinical Counselor	930
Professional Clinical Counselor Interns	658
	<hr/>
	99,071
California licensed Psychologists as of 2/12	18,023

BBS Disciplinary Actions² Fiscal Year July 1, 2012-June 30, 2013^{3 4}

	<u>Qtr.1</u>	<u>Qtr.2</u>	<u>Qtr.3</u>
Complaints received	274	251	228
Citations issued	46	36	18
AG cases initiated	22	29	23
Accusations filed	21	20	15
Statement of Issues filed	9	2	9
Stipulations Adopted	17	14	18
Revoked	8	9	7
Revoked, Stayed			
Probation	8	10	17
Surrender of License	12	9	3
Public Reprimand	1	0	4

SCOPE OF PRACTICE

Marriage And Family Therapists; Clinical Social Workers; Professional Clinical Counselors; Psychologists

*** The scope of practice for each of the mental health professions is defined by statute.**

*** Every practitioner has a duty to practice within the scope of practice of his/her profession.**

The scope of practice for marriage and family therapists, clinical social workers, professional clinical counselors and psychologists are provided below. There are many similarities in these descriptions, but they are not identical. As you review the scope of practice definitions, consider: Are all of your professional activities clearly within your scope of practice?

²§4982, Business & Professions Code defines “Unprofessional Conduct” for marriage and family therapists; §4992.3 applies to clinical social workers; §4999.90 applies to professional clinical counselors and §2960 applies to the practice of psychology

³ Qtr.#1 July 1, 2012-Sept. 30, 2012; Qtr.#2 Oct. 1, 2012-Dec. 31, 2012; Qtr.#3 Jan. 1, 2013-March 31, 2013; Qtr.#4 April 1, 2013-June 30, 2013

⁴ See, Exhibit #1 BBS Complaint Process

THE PRACTICE OF MARRIAGE AND FAMILY THERAPY⁵

Shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling. The application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training required by Sections 4980.36, 4980.37, and 4980.41, as applicable.

A person engages in the practice of marriage and family therapy when he or she performs or offers to perform or holds him or herself out as able to perform this service for remuneration in any form, including donations.⁶

THE PRACTICE OF CLINICAL SOCIAL WORK⁷

Is defined as a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior, is directed at helping people to achieve more adequate, satisfying, and productive social adjustments. The application of social work principles and methods includes, but is not restricted to, counseling and using applied psychotherapy of a nonmedical nature with individuals, families, or groups; providing information and referral services; providing or arranging for the provision of social services; explaining or interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, to provide, or to improve social or health services; or doing research related to social work. Psychotherapy, within the meaning of this chapter, is the use of psychosocial methods within a professional relationship, to assist the person or persons to achieve a better psychosocial adaptation, to acquire greater human realization of psychosocial potential and adaptation, to modify internal and external conditions which affect individuals, groups, or communities in respect to behavior, emotions, and thinking, in respect to their intrapersonal and interpersonal processes.

⁵§4980.02, Business & Professions Code

⁶§4980.10, Business & Professions Code

⁷§4996.9, Business & Professions Code

A person engages in the practice of clinical social work when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations.⁸

THE PRACTICE OF PROFESSIONAL CLINICAL COUNSELING⁹

Means the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. "Professional clinical counseling" includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed, rational decisions.

"Professional clinical counseling" is focused exclusively on the application of counseling interventions and psychotherapeutic techniques for the purposes of improving mental health, and is not intended to capture other, nonclinical forms of counseling for the purposes of licensure. For purposes of this paragraph, "nonclinical" means non-mental health.

A person engages in the practice of professional clinical counseling when he or she performs or offers to perform or holds himself or herself out as able to perform this service for remuneration in any form, including donations.¹⁰

Professional clinical counseling does not include¹¹ the assessment or treatment of couples or families unless the professional clinical counselor has completed all of the following additional training and education, beyond the minimum training and education required for licensure:

(A) One of the following:

(i) Six semester units or nine, quarter units specifically focused on the theory and application of marriage and family therapy. (ii) A named specialization or emphasis area on the qualifying degree in marriage and family therapy; marital and family therapy; marriage, family, and child counseling; or couple and family therapy.

(B) No less than 500 hours of documented supervised experience working directly with couples, families, or children.

(C) A minimum of six hours of continuing education specific to marriage and family therapy, completed in each license renewal cycle.

⁸ §4991.1, Business & Professions Code

⁹ §4999.20, Business & Professions Code

¹⁰ §4999.13, Business & Professions Code

¹¹ §4999.20, Business & Professions Code

"Counseling interventions and psychotherapeutic techniques" means the application of cognitive, affective, verbal or nonverbal, systemic or holistic counseling strategies that include principles of development, wellness, and maladjustment that reflect a pluralistic society. These interventions and techniques are specifically implemented in the context of a professional clinical counseling relationship and use a variety of counseling theories and approaches.¹²

"Assessment" means selecting, administering, scoring, and interpreting tests, instruments, and other tools and methods designed to measure an individual's attitudes, abilities, aptitudes, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral concerns and development and the use of methods and techniques for understanding human behavior in relation to coping with, adapting to, or ameliorating changing life situations, as part of the counseling process.¹³ **"Assessment" shall not include the use of projective techniques in the assessment of personality, individually administered intelligence tests, neuropsychological testing, or utilization of a battery of three or more tests to determine the presence of psychosis, dementia, amnesia, cognitive impairment, or criminal behavior.**

Professional clinical counselors shall refer clients to other licensed health care professionals when they identify issues beyond their own scope of education, training, and experience.

THE PRACTICE OF PSYCHOLOGY¹⁴

No person may engage in the practice of psychology, or represent himself or herself to be a psychologist, without a license granted under this chapter, except as otherwise provided in this chapter.

The practice of psychology is defined as rendering or offering to render for a fee to individuals, groups, organizations or the public any psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships; and the methods and procedures of interviewing, counseling, psychotherapy, behavior modification, and hypnosis; and of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations. The application of these principles and methods includes, but is not restricted to: diagnosis, prevention, treatment, and amelioration of psychological problems and emotional and mental disorders of individuals and groups. Psychotherapy within the meaning of this chapter means the use of psychological methods in a professional relationship to assist a person or

¹²§4999.20, Business & Professions Code

¹³§4999.20, Business & Professions Code

¹⁴§2903, Business & Professions Code

persons to acquire greater human effectiveness or to modify feelings, conditions, attitudes and behavior which are emotionally, intellectually, or socially ineffectual or maladjustive.

SCOPE OF COMPETENCY

***Every professional is required to practice within the scope of his or her competency. A practitioner's competency is based upon his or her education, training and experience.**

§1881, Code of Regulations (unprofessional conduct)¹⁵

The board may suspend or revoke the license of a licensee or may refuse to issue a license to a person who: (g) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

***A supervisor is required to ensure that his/her supervisee practices within the supervisee's scope of competency.**

§1845, Code of Regulations

Unprofessional conduct includes, but is not limited to:

(a) Performing or holding himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

(b) Permitting a trainee or intern under his or her supervision or control to perform or permitting the trainee or intern to hold himself or herself out as competent to perform professional services beyond the trainee's or intern's level of education, training and/or experience.

§4982, Business & Professions Code (marriage & family therapists)

A supervisor may not permit his or her trainee or registered intern to hold himself or herself out as competent to perform professional services beyond the trainee's or registered intern's level of education, training or experience.

§4999.90 Business & Professions Code (professional clinical coun.)

(I) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee, applicant, or registrant under supervision to perform, any professional services beyond the scope of the license authorized by this chapter (is unprofessional conduct).

¹⁵This section applies to social workers, but each of the mental health professions has very similar language in their respective statutes and regulations stating that it is impermissible for the practitioner to practice beyond his or her respective field(s) of competence.

§1881, Code of Regulations (social work)

A supervisor who “Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person” commits unprofessional conduct.

§1396. Code of Regulations (psychology)

A psychologist shall not function outside his or her particular field or fields of competence as established by his or her education, training and experience.

§1833.1, Code of Regulations (psychology)

The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the trainee or intern.

STANDARDS OF CARE

***Every therapist has a duty to provide services that are consistent with the relevant standards of care.**

***A therapist must exercise the reasonable degree of skill, knowledge and care that is ordinarily exercised by other members of his or her professional community, when practicing under similar circumstances.**

Standards of care are relevant to the issue of competency

In a malpractice lawsuit against a health care professional, the primary issue is whether or not the professional practiced within the applicable standard(s) of care.

Standards of care are fact-driven. The standard of care is an expression of what would generally be expected of a therapist, with his or her client(s), under the circumstances.

Examples: Consider what the standard of care may be when working with one of the following clients:

The suicidal client

The client with a severe anxiety disorder

The client with a history of sexual/physical abuse

The sexually abused child

The client with an eating disorder

ETHICAL STANDARDS

Mental health professionals must be aware of the various laws and regulations which are applicable to their conduct, and, the applicable ethical standards.

Ethical standards are rules of conduct, usually developed by a professional group or similar association. If you are a member of a particular association, that association expects you to practice within its ethical guidelines. When you joined the professional association, you agreed to follow those guidelines and to be subject to their code of ethics. Professional associations usually have an ethics committee whose job includes interpreting and applying the Association's code of ethics when a complaint is made.

Ethical Standards Applicable to Supervisors¹⁶

CAMFT Code of Ethics

§4.2 Competence of Supervisees

Marriage and family therapists do not permit students, employees, or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, competence, or unlicensed status.

§4.3 Maintaining skills of Supervisors

Marriage and family therapists who act as supervisors are responsible for maintaining the quality of their supervision skills and obtaining consultation or supervision for their work as supervisors whenever appropriate.

§4.4 Knowledge of Supervisors

Supervisors and educators are knowledgeable about supervision, relevant laws and regulations, and the practice of marriage and family therapy. Supervisors are knowledgeable about and abide by the laws and regulations governing the conduct of supervisors and supervisees.

§4.5 Changes in Laws and Ethics

Supervisors and supervisees are aware of and stay abreast of changes in professional and ethical standards and legal requirements, and **supervisors ensure that their supervisees are aware of professional and ethical standards and legal responsibilities.**

¹⁶ The ethical standards which are expressed by the different mental health professions are similar in most respects. But they are not identical. The ethical codes listed are from CAMFT, AAMFT, NASW, and APA.¹⁶

§4.6 Cultural Diversity

Supervisors and educators are aware of and address the role that culture and diversity issues play in the supervisory relationship, including, but not limited to, evaluating, terminating, disciplining, or making decisions regarding supervisees or students

§4.7 Policies and Procedures

Supervisors and educators create policies and procedures that are clear and that are disclosed to supervisees and students at the commencement of supervision or education.

§4.8 Performance Appraisals

Supervisors and educators provide supervisees with periodic performance appraisals and evaluative feedback throughout the supervisory relationship and identify and address the limitations of supervisees and students that might impede their performance.

§4.9 Business Practices

Supervisors follow lawful business practices and employer policies when employing and/or supervising interns, trainees, applicants and associates.

§4.10 Performance Assistance

Supervisors and educators guide supervisees and students in securing assistance when needed for the supervisee to maintain or improve performance, such as personal psychotherapy, additional education, training, or consultation

§4.11 Dismissal

Supervisors shall document their decisions to dismiss supervisees.

§4.12 Review of Trainee Agreements

Supervisors are aware of and review any trainee agreements with qualified educational institutions.

AAMFT Code of Ethics

Responsibility to Students and Supervisees Marriage and family therapists do not exploit the trust and dependency of students and supervisees.

§4.1 Exploitation Marriage and family therapists who are in a supervisory role are aware of their influential positions with respect to students and supervisees, and they avoid exploiting the trust and dependency of such persons. Therapists, therefore, make every effort to avoid conditions and multiple relationships that could impair professional objectivity or increase the risk of exploitation. When the risk of impairment or exploitation exists due to conditions or multiple roles, therapists take appropriate precautions.

§4.2 Therapy with Students or Supervisees Marriage and family therapists do not provide therapy to current students or supervisees.

§4.3 Sexual Intimacy with Students or Supervisees. Marriage and family therapists do not engage in sexual intimacy with students or supervisees during the evaluative or training relationship between the therapist and student or supervisee. If a supervisor engages in sexual activity with a former supervisee, the burden of proof shifts to the supervisor to demonstrate that there has been no exploitation or injury to the supervisee.

§4.4 Oversight of Supervisee Competence. Marriage and family therapists do not permit students or supervisees to perform or to hold themselves out as competent to perform professional services beyond their training, level of experience, and competence.

§4.5 Oversight of Supervisee Professionalism Marriage and family therapists take reasonable measures to ensure that services provided by supervisees are professional.

§4.6 Existing Relationship with Students or Supervisees Marriage and family therapists avoid accepting as supervisees or students those individuals with whom a prior or existing relationship could compromise the therapist's objectivity. When such situations cannot be avoided, therapists take appropriate precautions to maintain objectivity. Examples of such relationships include, but are not limited to, those individuals with whom the therapist has a current or prior sexual, close personal, immediate familial, or therapeutic relationship.

§4.7 Confidentiality with Supervisees Marriage and family therapists do not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law. In educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues, administrators, or employers who share responsibility for training of the supervisee. Verbal authorization will not be sufficient except in emergency situations, unless prohibited by law.

NASW Code of Ethics

§3.01 Supervision and Consultation

Social workers who provide supervision or consultation should have the necessary knowledge and skill to supervise or consult appropriately and should do so only within their areas of knowledge and competence.

Social workers who provide supervision or consultation are responsible for setting clear, appropriate, and culturally sensitive boundaries.

Social workers should not engage in any dual or multiple relationships with supervisees in which there is a risk of exploitation / potential harm

Social workers who provide supervision should evaluate supervisees' performance in a manner that is fair and respectful.

§3.02 Education and Training

Social workers who function as educators, field instructors for students, or trainers should provide instruction only within their areas of knowledge and competence and should provide instruction based on the most current information and knowledge available in the profession.

Social workers who function as educators or field instructors for students should evaluate students' performance in a manner that is fair and respectful.

Social workers who function as educators or field instructors for students should take reasonable steps to ensure that clients are routinely informed when services are being provided by students.

Social workers who function as educators or field instructors for students should not engage in any dual or multiple relationships with students in which there is a risk of exploitation or potential harm to the student. Social work educators and field instructors are responsible for setting clear, appropriate, and culturally sensitive boundaries.

APA Code of Ethics

§7.06 Assessing Student and Supervisee Performance

In academic and supervisory relationships, psychologists establish a timely and specific process for providing feedback to students and supervisees. Information regarding the process is provided to the student at the beginning of supervision. Psychologists evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

§7.07 Sexual Relationships with Students and Supervisees

Psychologists do not engage in sexual relationships with students or supervisees who are in their department, agency, or training center or over whom psychologists have or are likely to have evaluative authority

Ethical Standards Applicable to Supervisees

§4.13 Patients are Patients of Employer

Supervisees understand that the patients seen by them are the patients of their employer.

§4.14 Knowledge of Laws and Regulations

Supervisees have a responsibility to be knowledgeable about relevant laws and regulations pertaining to the license and practice of marriage and family therapy.

§4.15 Maintain Registrations

Supervisees maintain registrations when required by law and/or regulation and function within this limited role as permitted by the licensing law and/or regulations.

REQUIREMENTS FOR LICENSURE AS LMFT, LCSW, LPCC, AND PSYCHOLOGIST

REQUIREMENTS FOR LICENSURE AS LMFT

For hours of experience earned on or after January 1, 2010 and before January 1, 2012:

3,000 hours of supervised work experience, 104 weeks of supervision, 52 of which must be individual.

A. Direct Counseling Work Experience

1. **Individual Psychotherapy** (no min and no max)
2. **Couples, Families and Children** (min 500 credited hours)

The first 150 conjoint couples and family hours can be double counted (e.g. 150 actual hours X 2 = 300 credited hours)

3. **Group Psychotherapy** (max 500 hours)
4. **Telehealth Counseling** (incl. telephone counseling) (max 375 hours)

B. Adminstrating and evaluating psychological tests, writing clinical reports, writing progress notes or process notes (max 250 hours)

C. Other Non-Counseling Work Experience (max 1,250 credited hours; all items below when added together shall not exceed 1,250 credited hours)

1. **Workshops, seminars, training sessions, and conferences** (max 250 hours)
2. **Personal Psychotherapy** max 300 credited hours (100 actual hours X 3 = 300 credited hours)
3. **Client centered advocacy**
4. **Direct Supervisor Contact** (individual and group)

***For Marriage and Family Therapist Interns hours of experience earned on or After January 1, 2012:**

A. Direct Counseling Work Experience

1. **Individual Psychotherapy** (no min and no max)
2. **Couples, Families and Children** (min 500 credited hours)

The first 150 conjoint couples and family hours can be double counted (e.g. 150 actual hours X 2 = 300 credited hours)
3. **Group Psychotherapy** (max 500 hours)
4. **Telehealth Counseling** (incl. phone counseling) (max 375 hours)¹⁷

B. Administering and evaluating psychological tests, writing clinical reports, writing progress notes or process notes, and client centered advocacy (max 500 hours)¹⁸

- C. Other Non-Counseling Work Experience** (max 1,000 credited hours; all items below when added together shall not exceed 1,000 credited hours)
1. **Workshops, seminars, training sessions, and conferences** (max 250 hours)
 2. **Personal Psychotherapy** (max 300 credited hours; (e.g. 100 actual hours x = 300 hours)
 3. **Direct Supervisor Contact** (individual and group)

¹⁷ §2290, Business & Professions Code, “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers

¹⁸ §4980.03(h), Business & Professions Code, “Client centered advocacy,” as used in this chapter, includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

Pre-Degree Hours: The maximum amount of hours that a Trainee can accrue while still in his or her degree program is 1,300 hours, which breaks down as follows:

750 max counseling and supervision + all remaining hours categories = 1,300 max pre-degree hours

Depending on whether the supervisee is an MFT Trainee or a registered Intern, he/she must comply with different supervision requirements.

Applicant shall have received at least one hour of one-on-one, individual, face-to-face supervisor contact per week for a minimum of fifty-two weeks.

A unit of supervision = one-hour of individual supervision or two hours of group supervision.

MFT Trainee: Trainee is required to obtain one unit of supervision for every five hours of direct counseling experience earned in each setting. (Mandatory minimum of one hour per week in a work setting.)

MFT Intern: Minimum of one unit of supervision per week in a work setting. An additional unit of supervision is required in any week in which intern earns more than 10 hours of direct counseling/psychotherapy hours, in each work setting.

¹⁹ During each week in which experience is claimed and for each work setting in which experience is gained, an applicant shall have at least: One hour of individual, face-to-face supervision or two hours of face-to-face supervisor contact in a group of not more than eight supervisees.

No more than five hours of supervision, (individual or group), shall be credited during any single week.

40 hours of work experience is the maximum amount of work experience that can be claimed in a week.

Acceptable Work Settings²⁰

Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor and in compliance with the laws and regulations pertaining to supervision.

¹⁹ §1833 Code of Regulations

²⁰ §4980.43 Business & Professions Code

Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies, or in any other way pay for the obligations of their employers.

Acceptable work settings for MFT Trainees ^{21 22}

A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

The subdivision (below) shall only apply to hours of experience gained and client counseling provided on and after January 1, 2012.

(c) Trainees subject to Section 4980.36 may gain hours of experience outside of the required practicum but must be enrolled in a practicum course to counsel clients. Trainees subject to Section 4980.36 may counsel clients while not enrolled in a practicum course if the period of lapsed enrollment is less than 90 calendar days, and if that period is immediately preceded by enrollment in a practicum course and immediately followed by enrollment in a practicum course or completion of the degree program.

(d)

(e) All hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party's responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student's performance at the site. ²³

²¹§4980.43 Business & Professions Code

²²§4980.42 Business & Professions Code

²³ If an applicant has gained hours of experience while enrolled in an institution other than the one that

Acceptable Work Settings for MFT Interns²⁴

(1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied the requirements of subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice.

Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f)

(g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctoral degree and is thereafter granted the intern registration by the board.

Offsite supervision: An MFT/LPCC trainee or intern, may be supervised by an individual who is not employed at the same organization, so long as it is not a private practice. Specific language is

confers the qualifying degree, it shall be the applicant's responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

²⁴§4980.43, Business & Professions Code

required and there are sample forms on the BBS and CAMFT websites.²⁵

Note: §4996.23 (m), Business and Professions Code

A social work associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

Supervision via Videoconferencing²⁶(N/A Trainees)

MFT Interns working in a governmental entity, school, college/university, or an institution that is both nonprofit and charitable may obtain supervision via videoconferencing.

Videoconferencing is not permitted for supervision pre-degree or prior to the issuance of the Intern registration. Videoconferencing is not permitted for supervision in a private practice.

The "Six-Year Rule"

There are 2 different six-year rules:

1.) Hours of experience must be gained no more than six years immediately preceding the date on which Intern filed his or her application for LMFT examination eligibility.

An exception to the six-year rule is that a maximum of 500 hours of experience earned as a Trainee may be older than six years.

2.) An intern registration number must be renewed every year, up to a maximum of 5 renewals. A registration number expires after 6 years. An intern may not be in a private practice after his or her initial intern registration number has expired.

§4984.01, Business and Professions Code

The marriage and family therapist intern registration shall expire one year from the last day of the month in which it was issued.²⁷

²⁵ §4996.23, Business and Professions Code; §§1820,1833, Code of Regulations.

²⁶ §§4980.43; 4996.23;4996.46, Business and Professions Code Same Videoconferencing rule for MFT Interns; Associate Social Workers; LPCC Interns

²⁷ §4984.01, Business & Professions Code, To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:(1) Apply for renewal on a form prescribed by the board. (2) Pay a renewal fee prescribed by the board. (3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

Note: As of January 1, 2014, the following changes apply to (3)(c)

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. **When no further renewals are possible, an applicant may apply for and obtain a new intern registration if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.**

REQUIREMENTS FOR LICENSURE AS LCSW

3,200 hours of post-master's degree supervised experience providing clinical social work services.

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 licensed mental health professional.

A minimum of 2,000 hours in clinical psychosocial diagnosis assessment, and treatment, including psychotherapy or counseling.

Of the 2,000 clinical hours required, no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

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 filed.

Experience shall not be credited for more than 40 hours per wk.

Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks.

An associate shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained.

No more than five hours of supervision, whether individual or group, shall be credited during any single week.

Group supervision shall be provided in a group of not more than eight supervisees, in segments lasting no less than one continuous hour.

Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by an LCSW.

Acceptable Work Settings for Associate Social Workers²⁸

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

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

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

(f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.

(h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

²⁸§4996.23, Business & Professions Code

(i) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(j) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(l) An associate shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(3) Lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

(m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working

Supervision via Videoconferencing²⁹(Same as MFT)

The "Six-Year Rule"

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 filed.³⁰

²⁹ §§4980.43;4996.23;4996.46, Business and Professions Code Same Videoconferencing rule for MFT Interns; Associate Social Workers; LPCC Interns

³⁰ §4996.28 Business and Professions Code (regarding maximum renewals of Registration as Associate Clinical Social Worker) is essentially the same as the content stated in §4984.01 (regarding maximum renewals of Marriage and Family Therapist Registration) and §4995.45 (regarding maximum renewals of Professional Clinical Counseling Registration).

REQUIREMENTS FOR LICENSURE AS LPCC

Minimum of 3,000-post degree hours of supervised clinical mental health experience related to the practice of professional clinical counseling, performed over a period of not less than two years (104 weeks), which shall include:

Not more than 40 hours in any seven consecutive days.

Not less than 1,750 hours of direct counseling with individuals or groups in a setting described in Section 4999.44 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

Not more than 500 hours of experience providing group therapy or group counseling.

Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.

Not less than 150 hours of clinical experience in a hospital or community mental health setting.

Not more than a combined total of 1,250 hours of experience in direct supervisor contact and Client centered advocacy.

Not more than 250 hours of experience administering tests and evaluating psychological tests of clients, writing clinical reports, writing progress notes, or writing process notes.

Not more than 250 hours of verified attendance at workshops, training sessions, or conferences directly related to professional clinical counseling that are approved by the applicant's supervisor. Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

No more than five hours of supervision, whether individual or group, shall be credited during any single week.

An intern shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained.

One hour of direct supervisor contact," means one hour of face-to-face contact on an individual basis or two hours of face-to-face

contact in a group of not more than eight persons in segments lasting no less than one continuous hour

Acceptable Work Settings for Professional Clinical Counselor Trainees³¹

A clinical counselor trainee may be credited with predegree supervised practicum and field study experience completed in a setting that meets all of the following requirements:

- (a) Lawfully and regularly provides mental health counseling and psychotherapy.**
- (b) Provides oversight to ensure that the clinical counselor trainee's work at the setting meets the practicum and field study experience and requirements set forth in this chapter and is within the scope of practice for licensed professional clinical counselors.**
- (c) Is not a private practice.**
- (d) Experience may be gained by the clinical counselor trainee solely as part of the position for which the clinical counselor trainee volunteers or is employed.**

Acceptable Work Settings for Professional Clinical Counselor Interns³²

A clinical counselor intern may be credited with supervised experience completed in any setting that meets all of the following requirements:

- (a) Lawfully and regularly provides mental health counseling or psychotherapy.**
- (b) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as specified in Article 2 (commencing with Section 4999.20).**
- (c) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.**
- (d) An intern shall not be employed or volunteer in a private practice until registered as an intern. An intern employed under this chapter shall not perform any duties, except for those services provided as a**

³¹§4999.34, Business & Professions Code

³²§4999.44, Business & Professions Code

clinical counselor trainee, until registered as an intern.³³

Offsite supervision: See Offsite supervision, MFT trainees and interns (above)

Supervision via Videoconferencing: (Same as MFT and Social Work)

The “Six-Year Rule”

No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility was filed.

Note: §4995.45, Business & Professions Code regarding maximum renewals of the Professional Clinical Counseling Registration is essentially the same as the content stated in §4984.01 (Marriage and Family Therapist Registered Interns)

REQUIREMENTS FOR LICENSURE AS PSYCHOLOGIST³⁴

Two years of qualifying supervised professional experience must be completed and documented prior to licensure.

One year of supervised experience is defined as 1500 hours.

At least one year of supervised experience must be completed post-doctorally.

Each year of supervised experience must be completed within a thirty consecutive month period.

If both years of supervised experience (3000 hours) are completed post-doctorally, they must be completed within a sixty-month period.

**Trainees shall have no proprietary interest in the business of the primary or delegated supervisor(s) and shall not serve in any capacity which would hold influence over the primary or delegated supervisor(s)’ judgment in providing supervision.
Trainees shall be provided with supervision for 10% of the total time worked each week.**

At least one hour per week shall be face-to-face, direct, individual supervision with the primary supervisor.

A maximum of forty-four (44) hours per week will be credited toward

³³§4999.45, Business & Professions Code

³⁴§1387, Code of Regulations

meeting the supervised professional experience requirement. This shall include the required 10% supervision.

The primary supervisor shall be employed by the same work setting as the trainee and be available to the trainee 100% of the time the trainee is accruing supervised professional experience. This availability may be in-person, by telephone, by pager or by other appropriate technology.

Primary supervisors shall ensure that a plan is in place to protect the patient/client in the event a patient/client crisis or emergency occurs during any time the supervisor is not physically present at the established site at which the trainee is working. The primary supervisor shall ensure that the trainee thoroughly understands the plan in the event of a crisis/emergency.

Supervised professional experience may not be obtained from supervisors who have received payment, monetary or otherwise, from the trainee for the purpose of providing such supervision.

Experience may not be from a supervisor who is a family member, or from a supervisor who has a current or prior personal relationship with the supervisee, which would undermine the authority or effectiveness of the supervisor.³⁵

Supervised professional experienced gained while the trainee is functioning in under another mental health license shall not be credited toward meeting the requirements for the psychologist's license.

Except for the accrual of supervised professional experience by a psychological assistant in a private practice setting (as provided for in section 1387(b)(11)), prior to the start of the experience, the primary supervisor and the supervisee shall together prepare a document that identifies at least the following:

Name, license number and signature of primary supervisor;
Name and signature of supervisee; Statutory authority under which the supervisee will function; Start date of the experience and the anticipated completion date; Duties to be performed in a sequential structured plan as defined in this section; Address of the locations at which the duties will be performed and goals and objectives of the plan for supervised professional experience.

A psychological assistant in a private practice setting is required to

³⁵§1830, Code of Regulations The same principles apply to supervisors of all of the mental health disciplines.

submit the plan for supervised professional experience to the Board for prior approval. Supervised professional experience that is accrued prior to the approval of the plan will not count toward qualifying the applicant for licensure.

Acceptable Work Settings for Psychology Supervisees

Pre-doctoral supervised experience must be completed in a formal internship placement (pursuant to section 2911 of the code), or, as an employee of an exempt setting, or, as a psychological assistant (pursuant to section 2913 of the code), or, pursuant to a Department of Mental Health Waiver.

Post-doctoral supervised experience must be completed in a formal postdoctoral training program or, as a registered psychologist, or, as an employee of an exempt setting, or, as a psychological assistant, or, pursuant to a Department of Mental Health Waiver.

REQUIREMENTS FOR SUPERVISORS

REQUIREMENTS FOR SUPERVISORS OF MARRIAGE AND FAMILY THERAPIST TRAINEES AND INTERNS³⁶

Supervisors must:

Possess a current and valid California license for at least two years prior to the commencement of supervision.

Possess a current valid license for a minimum of two years as an LMFT, LCSW, LPCC, Licensed Psychologist, or as a board-certified Psychiatrist.³⁷

Complete a 6-hour supervision training within the two-year period immediately preceding supervision and every renewal period when supervising. If the supervisor has never taken this course, it must be taken within 60 days of commencement of supervision.

Have practiced psychotherapy or directly supervised trainees, interns, or associate clinical social workers who perform psychotherapy as part of their clinical practice in two of the past five years immediately preceding the commencement of supervision.

³⁶§1833.1, Code of Regulations

³⁷ An exception to the requirement is if the supervisor provides supervision only to trainees at an academic institution that offers a qualifying degree program as specified in Section 4980(a), and he or she has been licensed in California or another state for at least two years.

The supervisor who is not licensed as a marriage and family therapist, shall have sufficient experience, training and education in marriage and family therapy to competently practice marriage and family therapy in California.

The supervisor is required to keep himself or herself informed of developments in marriage and family therapy and in California law governing the practice of marriage and family therapy.

The supervisor must have sufficient experience, training and education in the area of clinical supervision to competently supervise trainees or interns.

Supervisors must complete a minimum of six hours of supervision training or coursework in each renewal period while providing supervision. This training or coursework may apply toward the person's continuing education requirements. If a supervisor has not acquired the six hours of supervision training or coursework stated above, he or she must complete it within sixty days of commencement of supervision. If the supervisor is a licensed psychologist or board certified psychiatrist, this six hour continuing education requirement does not apply.

The supervisor has and maintains a current license in good standing and will immediately notify the trainee or intern of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure that affects the supervisor's ability or right to supervise.

A licensed professional in private practice may supervise or employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern or associate clinical social worker in that private practice.³⁸

A marriage and family therapy corporation may employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (g) of Section 4980.03.

In no event shall any marriage and family therapy corporation employ, at any one time, more than a total of 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker.

³⁸ §§4980.45; 4996.24, 4999.455., Business & Professions Code

Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the marriage and family therapy corporation and shall be actively engaged in performing professional services at and for the marriage and family therapy corporation.³⁹

The supervisor must know and understand the laws and regulations pertaining to both the supervision of trainees and interns and the experience required for licensure as a marriage and family therapist.

The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the trainee or intern. (scope of competency)

The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the trainee or intern by: Direct observation; Review of audio or videotapes of therapy; Review of progress and process notes and other treatment records; Or by any other means deemed appropriate by the supervisor.

The supervisor shall address with the trainee or intern the manner in which emergencies will be handled.

A supervisor must give at least one week's prior written notice to a trainee or intern of the supervisor's intent not to sign for any further hours of experience for that person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where the supervisor provided the required supervision.⁴⁰

The supervisor is required to obtain from each trainee or intern for whom supervision will be provided, the name, address, and telephone number of the trainee's or intern's most recent supervisor and employer.

In any setting that is not a private practice, a supervisor shall evaluate the site(s) where a trainee or intern will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of practice of a marriage and

³⁹ Be aware of an important distinction between private practice and professional corporation settings for supervisors of marriage and family therapist interns. According to §4980.43 of the Business & Professions Code, In private practice settings, the intern's supervisor must either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. According to Business & Professions Code, §4980.45, in a professional corporation, the supervisor shall be employed full time by the marriage and family therapy corporation and shall be actively engaged in performing professional services at and for the marriage and family therapy corporation.

⁴⁰ The same rule applies to marriage and family therapists, clinical social workers and professional clinical counselors. CCR§§ 1833.1, 1870, 1821.

family therapist; and (2) the experience is in compliance with the requirements set forth in Sections 1833 and 4980.43 of the Code.

"Supervision" includes:^{41 42}

Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised;

Reviewing client/patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the intern or trainee; Monitoring and evaluating the ability of the intern or trainee to provide services at the site(s) where he or she will be practicing and to the particular clientele being served; Ensuring compliance with laws and regulations governing the practice of marriage and family therapy.

Supervision shall include that amount of direct observation or review of audio or videotapes of therapy, as deemed appropriate by the supervisor.

Forms and related

Weekly Summary of Hours of Experience Form Weekly hours of experience are logged on this form and the supervisor signs off. Supervisor should review weekly and keep copies. Not submitted to the Board unless requested.

MFT Experience Verification form Must be signed by each supervisor and submitted when applying for licensure. A separate form should be used for pre and post degree experience

Note: MFT Intern must also submit W-2s for each employment setting in which he or she was paid. For the most recent year, Intern can submit a current pay stub in lieu of W-2s. If Intern volunteered, a letter from the employer is required confirming his or her voluntary status.

Responsibility Statement for Supervisors of an MFT Trainee or Intern

The licensed mental health professional who assumes responsibility for providing supervision to a trainee or intern working toward a Marriage and Family Therapist license is required to sign, under penalty of perjury, prior to the commencement of any counseling or supervision. Applicant will submit

⁴¹§1833, Code of Regulations,

⁴² Upon written request of the board, the supervisor shall provide to the board any documentation, which verifies the supervisor's compliance with the requirements set forth in this section.

to Board upon application for licensure

REQUIREMENTS FOR SUPERVISORS OF ASSOCIATE CLINICAL SOCIAL WORKERS ⁴³

Supervisors must

Possess a current and valid California license,

Complete a minimum 15 contact hours in supervision training,

Have practiced psychotherapy or directly supervised associates or marriage and family therapist interns or trainees who perform psychotherapy as part of their clinical practice in two of the past five years immediately preceding the commencement of supervision.

ASWs are required to obtain 1,700 hours of the total 3,200 hours of post-master's degree experience under a LCSW to qualify for licensure.

Effective April 1, 2013, a person supervising an associate clinical social worker (ASW) must have been licensed in California or another state for at least two years prior to beginning any supervision.

A licensee in private practice may supervise or employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

A licensed clinical social workers' corporation may employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations.

In no event shall any licensed clinical social workers' corporation employ, at any one time, more than a total of 15 individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. **Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the licensed clinical social workers' corporation and shall be actively**

⁴³§1870, Code of Regulations

engaged in performing professional services at and for the licensed clinical social workers' corporation.⁴⁴

Note: Unique supervision rule (n/a in professional corporation)

An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.⁴⁵

"Supervision" includes:

Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised. Reviewing client or patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the clinical counselor trainee.

Monitoring and evaluating the ability of the intern or clinical counselor trainee to provide services to the particular clientele at the site or sites where he or she will be practicing.

Ensuring compliance with laws and regulations governing the practice of licensed professional clinical counseling.

That amount of direct observation, or review of audio or videotapes of counseling or therapy, as deemed appropriate by the supervisor.

The supervisor will immediately notify the associate of any disciplinary action including revocation, suspension (even if stayed), probation terms, inactive license, or any lapse in licensure that affects the supervisor's ability to supervise.

The supervisor must have sufficient experience, training and education in the area of clinical supervision to competently supervise associates.

The supervisor must know and understand the laws and regulations pertaining to both supervision of associates and the experience required for licensure as a clinical social worker.

The supervisor shall review, monitor and evaluate assessment and treatment decisions of the associate clinical social worker.

⁴⁴ §4996.24, Business & Professions Code

⁴⁵ §4996.23, Business & Professions Code

A supervisor shall give one week's written notice to an associate of the supervisor's intent not to sign for any further hours of experience for the associate. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where the supervisor actually provided the supervision.

Upon written request of the board, the supervisor shall provide to the board any documentation, which verifies the supervisor's compliance with the requirements set forth in this section.

Forms and related

Weekly tracking log (Not provided to Board unless requested.)

Responsibility Statement for Supervisors of an Associate Clinical Social Worker. Must be completed prior to supervision by the supervisor. The supervisor must give the original signed agreement to the Associate. The Associate is required to submit the original signed form to the Board upon application for licensure

The supervisor and the associate shall develop the "Supervisory Plan."⁴⁶ The associate must submit the original signed plan for each supervisor to the board upon application for licensure. Supervisory plan describes the goals and objectives of supervision. Goals must include that there will be an ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations.

The supervisor shall complete an assessment of the ongoing strengths and limitations of the associate. The assessments shall be completed at least once a year and at the completion or termination of supervision. A copy of all assessments shall be provided to the associate by the supervisor.

Clinical Social Worker Experience Verification. Supervisor must review and sign. Associate submits when applying for exams.

Note: Associate must also submit W-2s for each employment setting in which he or she was paid. For the most recent year, Intern can submit a current pay stub in lieu of W-2s. If Intern volunteered, a letter from the employer is required confirming voluntary status.

⁴⁶ §1870.1, Code of Regulations

REQUIREMENTS FOR SUPERVISORS OF PROFESSIONAL CLINICAL COUNSELOR TRAINEES AND INTERNS⁴⁷

§1821, Code of Regulations Requirements for Supervisors

Prior to the commencement of any counseling or supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of a Professional Clinical Counselor Intern," requiring that: (1) The supervisor possesses and maintains a current valid California license as either a professional clinical counselor, marriage and family therapist, licensed clinical social worker, licensed psychologist, or physician who is certified in psychiatry as specified in Section 4999.12 (h) of the Code and has been so licensed in California for at least two years prior to commencing any supervision.

§4999.455, Business & Professions Code

A licensed professional in private practice who has satisfied the requirements of subdivision (h) of Section 4999.12 may supervise or employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) **A professional clinical counselor corporation** may employ, at any one time, no more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (h) of Section 4999.12. In no event shall any professional clinical counselor corporation employ, at any one time, more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. **Persons who supervise individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the professional clinical counselor corporation and shall be actively engaged in performing professional services at and for the professional clinical counselor corporation.**

(2) A supervisor who is not licensed as a professional clinical counselor, shall have sufficient experience, training, and education in professional clinical counseling to competently practice professional clinical counseling in California.

(3) The supervisor keeps himself /herself informed of developments in professional clinical counseling and in California law governing the

⁴⁷ §4999.12, Business and Professions Code

practice of professional clinical counseling.

(4) The supervisor has and maintains a current license in good standing and will immediately notify the intern of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure that affects the supervisor's ability or right to supervise.

(5) The supervisor has practiced psychotherapy or provided direct supervision of trainees, interns, or associate clinical social workers who perform psychotherapy for at least two (2) years within the five (5) year period immediately preceding any supervision.

(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise interns.

(A) Persons licensed by the board who provide supervision shall complete a minimum of six (6) hours of supervision training or coursework in each renewal period while providing supervision.

(B) Persons licensed by the board who provide supervision and who have not met requirements of subsection (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty days of commencement of supervision.

(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of interns and the experience required for licensure as a professional clinical counselor.

(8) The supervisor shall ensure that the extent, kind, and quality of counseling performed by the intern is consistent with the education, training, and experience of the intern.

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the intern by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor.

(10) The supervisor shall address with the intern the manner in which emergencies will be handled

Forms

Weekly Summary of Hours of Experience Form Weekly hours of experience are logged on this form and supervisor signs. Supervisor should review weekly and keep copies. Not submitted to the Board unless requested.

Responsibility Statement for Supervisors of Clinical Counseling

Intern. Must be completed prior to commencement of supervision. The supervisor shall provide the intern with the original signed statement. Interns are required to provide the board with the signed statement from each supervisor upon application for licensure.

Supervisory Plan Must be completed prior to supervision by the supervisor. The supervisor must give the original signed agreement to the intern. Intern is required to submit the original signed form to the Board upon application for licensure

Clinical Counselor Experience Verification form To be signed by supervisor and submitted by applicant.

Note: Intern must also submit W-2s for each employment setting in which he or she was paid. For the most recent year, Intern can submit a current pay stub in lieu of W-2s. If Intern volunteered, a letter from the employer is required confirming his or her voluntary status.

REQUIREMENTS FOR SUPERVISORS OF PSYCHOLOGY TRAINEES.^{48 49}

Primary Supervisors of Psychology Trainees⁵⁰

All primary supervisors shall be licensed psychologists, except that board certified psychiatrists may be a primary supervisor of a registered psychological assistant. In this regard, a maximum of 750 hours of experience out of the required 3000, can be supervised by a board certified psychiatrist and can be counted toward meeting the SPE licensing requirements.

Primary supervisors shall possess and maintain a valid, active license free of any formal disciplinary action, and shall immediately notify the supervisee of any disciplinary action, including revocation, surrender, suspension, probation terms, or changes in licensure status including inactive license, delinquent license or any other license status change that affects the primary supervisor's ability or qualifications to supervise.

Primary supervisors who are licensed by the board shall complete a minimum of six (6) hours of supervision coursework every two years.

Primary supervisors shall certify under penalty of perjury to completion of this coursework requirement each time the supervisor completes a

⁴⁸ "Trainees" is being used to refer to both predoctoral and postdoctoral psychology supervisees.

⁴⁹ §§2909;2913, Business and Professions Code (These sections of the Code describe regulations for employment and supervision of psychological assistants and registered psychologists)

⁵⁰ §1387.1, Code of Regulations

verification form as referenced in section 1387(b)(10).

Primary supervisors shall be in compliance at all times with the provisions of the Psychology Licensing Law and the Medical Practice Act, whichever is applicable, and the regulations adopted pursuant to these laws.

Primary supervisors shall be responsible for ensuring compliance at all times by the trainee with the provisions of the Psychology Licensing Law and the regulations adopted pursuant to these laws.

Primary supervisors shall be responsible for ensuring that all supervised professional experience, including record keeping is conducted in compliance with the Ethical Principles and Code of Conduct of the American Psychological Association.

Primary supervisors shall be responsible for monitoring the welfare of the trainee's clients.

Primary supervisors shall ensure that each client or patient is informed, prior to the rendering of services by the trainee (1). that the trainee is unlicensed and is functioning under the direction and supervision of the supervisor; (2). That the primary supervisor shall have full access to the treatment records in order to perform supervision responsibilities and (3). That any fees paid for the services of the trainee must be paid directly to the primary supervisor or employer.

Primary supervisors shall be responsible for monitoring the performance and professional development of the trainee.

Primary supervisors shall ensure that they have the education, training, and experience in the area(s) of psychological practice they will supervise.

Primary supervisors shall have no familial, intimate, business or other relationship with the trainee, which would compromise the supervisor's effectiveness, and/or which would violate the Ethical Principles and Code of Conduct of the American Psychological Association.

Primary supervisors shall not supervise a trainee who is now or has ever been a psychotherapy client of the supervisor.

Primary supervisors shall not exploit trainees or engage in sexual relationships or any other sexual contact with trainees.

Primary supervisors shall require trainees to review the pamphlet "Professional Therapy Never Includes Sex."

Primary supervisors shall monitor the supervision performance of all delegated supervisors.

Delegated Supervisors of Psychology Trainees⁵¹

In private practice settings, only psychologists or board-certified psychiatrists can supervise a psychology trainee. There is a limit on the number of hours that a psychology trainee can have under the supervision of a psychiatrist of 750 hours.

Primary supervisors may delegate supervision to other qualified psychologists or to other qualified mental health professionals including licensed marriage and family therapists, licensed educational psychologists, licensed clinical social workers and board certified psychiatrists.

The primary supervisor remains responsible for providing the minimum one-hour per week of direct, individual face-to-face supervision.

Delegated supervisors shall have and shall maintain a valid, active license free of any formal disciplinary action, shall immediately notify the trainee and the primary supervisor of any disciplinary action, including revocation, surrender, suspension, probation terms, or changes in licensure status including inactive license, or any other license status change that affects the supervisors ability or qualifications to supervise.

Delegated supervisors shall be in compliance at all times with the provisions of the Psychology Licensing Law and the regulations adopted pursuant to these laws.

Delegated supervisors shall be responsible for ensuring compliance by the trainee with the provisions of the Psychology Licensing Law and the regulations adopted pursuant to these laws.

Delegated supervisors shall be responsible for ensuring that all SPE and record keeping performed under the supervision delegated to them is conducted in compliance with the Ethical Principles and Code of Conduct of the American Psychological Association.

Delegated supervisors shall be responsible for monitoring the welfare of the trainees' clients while under their delegated supervision.

Delegated supervisors shall be responsible for monitoring the performance and professional development of the trainee and for reporting this performance and development to the primary supervisor.

Delegated supervisors shall ensure that they have the education, training, and experience in the area(s) of psychological practice to be supervised.

⁵¹§1387.2, Code of Regulations

Delegated supervisors shall have no familial, intimate, business or other relationship with the trainee which would compromise the supervisor's effectiveness and/or which would violate the Ethical Principles and Code of Conduct of the American Psychological Association.

Delegated supervisors shall not supervise a trainee who is now or has ever been a psychotherapy client of the supervisor.

Delegated supervisors shall not exploit trainees or engage in sexual relationships, or any other sexual contact with trainees

Forms

§1391.12., Code of Regulations Psychological Assistant Renewals.

(a) A new registration shall expire one year after issuance. The registration of a psychological assistant shall be renewed by the employer annually, on or before its expiration.

(b) A registration renewed 30 days after its expiration must be accompanied by the delinquency fee required in section 1392.1 in order to be renewed.

(c) A psychological assistant who has been registered with the Board but whose registration has expired and has not been renewed by the employer shall not function as a psychological assistant.

(d) A psychological assistant employed and registered by more than one employer shall have his or her registration renewed by each employer.

(e) A registration not renewed within 60 days after its expiration shall become void and a new application for registration shall be submitted by the employee.

SUPERVISOR RECORDKEEPING⁵²

There is no legal or ethical requirement to keep specific records of supervision with interns or trainees.

For the therapist who is supervising a number of supervisees, records are necessary to assist with recall as to the progress of the supervisee, to know where the prior supervision session left off, and to assist the supervisor in recollecting where the supervisee's patients are in their treatment.

⁵² Content regarding supervisor recordkeeping is excerpted from the following article in *The Therapist*: "Tips on Supervision-Supervisor Recordkeeping," by Mary Riemersma, former CAMFT Executive Director.

Consistent recordkeeping and documentation of supervision can provide the primary means of defense should the supervisor be implicated in a legal or disciplinary matter regarding the supervisee.

Supervisors should consider documenting/including the following items in a supervisee's file:⁵³

Documentation that the Intern is registered, where appropriate

If the supervisee is not covered by the employer's malpractice insurance policy, the supervisor should have a copy of the supervisee's policy, or at a minimum, proof of coverage.

A copy of the supervisee's job application, resume or vitae

Documentation that the supervisee is hired "at will." This means that the supervisee may also be terminated "at will."

Documentation specifying whom to contact in case of an emergency involving the supervisee.

The name, address and telephone number of the prior supervisor and employer, including documentation of any discussions with such individuals

A copy of any written and signed contract or agreement with the supervisee, if such a contract or written agreement exists.

A copy of the required signed statement by the supervisee agreeing to comply with the child abuse reporting law.

Documentation regarding office policies, including policies regarding fees for services, handling payments, etc.

Job description or description of the duties of the supervisee

Documentation expressly prohibiting the supervisee from engaging in any sexual act or contact with a patient, clarifying that such acts are never within the scope of employment, that they are illegal, unprofessional conduct in violation of the ethical standards of the profession and will not be condoned.

A copy of the signed supervisor responsibility statement Copies of all weekly summaries of experience logs

Copies of any policies and procedures provided to the supervisor regarding the manner in which records of patients are to be

⁵³ The items listed are examples and do not reflect an exhaustive list of what may be documented.

maintained by the supervisee. For example, are progress or process notes expected, are original journals and artwork to be returned to the patient/client, how are critical voice mail messages to be retained, can notes be maintained by computer, etc.

Documentation that any records maintained by the supervisee, with regard to clients are the records of the employer and not the supervisee.

A log of all of the dates and times of supervision, with notations for supervision sessions cancelled or shortened.

Copies of periodic evaluations of the supervisee

Copies of written correspondence between the supervisee and supervisor

Notes regarding specific instructions or recommendations made to the supervisee, including the supervisee's response.

Notes regarding discussions of concerns expressed by the supervisee and the supervisor's response(s)

Notes regarding problems / concerns, including documentation of decisions regarding the supervisee's conduct or regarding issues with patients/clients, or colleagues, etc.

Employing Interns

§4980.45. (a) Business & Professions Code, A licensed professional in private practice who has satisfied the requirements of subdivision (g) of Section 4980.03 may supervise or employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b) A marriage and family therapy corporation may employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (g) of Section 4980.03. In no event shall any marriage and family therapy corporation employ, at any one time, more than a total of 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a

total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the marriage and family therapy corporation and shall be actively engaged in performing professional services at and for the marriage and family therapy corporation. Employment and supervision within a marriage and family therapy corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

Employment Agreements

It is up to the individual employer/supervisor to decide if he or she prefers to use an employment agreement. For those who elect to do so, it may be advisable to seek consultation from an employment law attorney.

Employers should make any organizational policies known to the supervisee, and should be clear that the employment is on an “at-will” basis. Employers should be sure to inform supervisees that they are expected to abide by the employer’s policies and that they are subject to the authority and oversight of the supervisor.

- * IT IS CRITICAL THAT SUPERVISEES UNDERSTAND THAT THEY ARE NOT INDEPENDENT CONTRACTORS.**
- * INTERNS SHOULD NOT BE CONSTRUCTING THEIR OWN DOCUMENTS.**
- * INTERNS SHOULD UTILIZE THE SAME FORMS AND FOLLOW THE SAME RECORD-KEEPING FORMAT AND PROCEDURES AS THEIR EMPLOYER.**
- * CLINICAL FILES USED BY THE INTERNS ARE THE PROPERTY OF THE EMPLOYER, NOT THE INTERN.**
- * THERE SHOULD BE CLEAR INSTRUCTION WHICH CONVEYS THE EMPLOYERS’ EXPECTATIONS FOR THE INTERN ON ISSUES SUCH AS:**
- * RECORDKEEPING, AND TIMELINESS OF DOCUMENTATION;**
- * CONFIDENTIALITY, STORAGE AND PROTECTION OF CLIENT FILES;**
- * THE UTILIZATION OF PARTICULAR FORMS OR PROCEDURES FOR SECURING CONSENT FOR TREATMENT;**

- * **POLICIES FOR THE RELEASE OF RECORDS;**
- * **POLICES FOR HANDLING EMERGENCIES;**
- * **POLICIES REGARDING THE SETTING OF APPOINTMENTS WITH CLIENTS AND THE CANCELANATION OF APPOINTMENTS, (BY THE INTERN AND BY THE CLIENT);**
- * **POLICIES CONCERNING THE HANDLING OF FEES AND INSURANCE;**
- * **POLICIES FOR ENGAGING IN ADVERTISING (INCLUDING THE USE OF WEBSITES, ETC.);**
- * **POLICIES FOR THE USE OF EMAIL, POLICIES FOR TELEPHONE OUTGOING MESSAGES;**
- * **EXPECTATIONS FOR INFORMING THE SUPERVISOR WHEN PROBLEMS ARISE.**
- * **EMPLOYEES SHOULD BE EXPLICITLY INSTRUCTED REGARDING THE IMPORTANCE OF CONFIDENTIALITY AND PRIVACY, AND SHOULD BE EXPLICITLY REMINDED THAT THERE IS AN ABSOLUTE PROHIBITION OF ESTABLISHING A PERSONAL OR SEXUAL RELATIONSHIP WITH ANY CLIENT.**

Sample Letter of Agreement for Offsite Supervision⁵⁴

Should be on employers business letterhead

It is hereby agreed that _____(supervisor), agrees to supervise _____(intern), for _____(employer) on a voluntary basis. Employer agrees to allow supervisor to supervise the intern listed below. Supervisor agrees to ensure that the extent, kind and quality of marriage and family therapy services performed by the intern listed below is consistent with the intern's training, education, and experience and is appropriate in extent, kind and quality.

Supervisor agrees to ensure that the marriage and family therapy services performed by the intern listed below and the supervision provided by the supervisor will be in accordance with Chapter 13 of the Business and Professions Code and the California Code of Regulations.

⁵⁴ Offsite supervisor agreement used if the intern had a supervisor from outside the organization. Not applicable to private practice.

The intern listed below is employed by _____
and performs marriage and family therapy services of a nature specified in Chapter
13 of the Business and Professions Code and the California Code of Regulations.

_____ (Supervisor's Signature)

_____ (Intern's Signature)

_____ (Employer /Official's Signature)

Employment-related issues

Supervisors who employ interns may wish to consult with employment/labor law resource, (such as an employment law attorney), regarding labor and employment laws which are applicable to their situation.

Trainees and interns shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor.⁵⁵

Interns, trainees and associate social workers cannot pay the expenses of their employer.^{56 57 58}

Interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies, or in any other way pay for the obligations of their employers.

This means that the supervisee does not pay fees to the supervisor to offset rent, utilities, etc. Such expenses should not be deducted from the supervisee's pay!

Note: Employers are required to obtain workmen's compensation insurance for any employee. Such costs cannot be passed-on to the employee.

Psychology Trainees cannot pay the expenses of the employer (business expenses) and may not pay for supervision⁵⁹

⁵⁵ Associate social workers do not have an identical law regarding practice location, as found in 4980.43 and §4999.47. However, it is clear that Associate social workers may not have a proprietary interest in the employer's business.

⁵⁶ §4980.43, Business & Professions Code

⁵⁷ §4996.23, Business & Professions Code

⁵⁸ §4999.47, Business & Professions Code

⁵⁹ 1391.8 , Code of Regulations, Employer-Employee Business Relationship

No supervisor or employer of a psychological assistant may charge a fee or otherwise require monetary payment in consideration for the employment or supervision of a psychological assistant. The supervisor or employer shall supply all provisions necessary to function as a psychological assistant.

(b) The psychological assistant shall have no proprietary interest in the business of the supervisor or the employer.

(c) The psychological assistant shall not rent, lease, sublease, or lease-purchase office space from any entity for purposes of functioning as a psychological assistant.

Psychology Trainees⁶⁰ (Supervisor availability)

The rule regarding the availability of supervisors for Psychology trainees is different than that which applies to the other mental health professions:

The primary supervisor shall be employed by the same work setting as the trainee and be available to the trainee 100% of the time the trainee is accruing supervised . This availability may be in-person, by telephone, by pager or by other appropriate technology.

ADVERTISING & REQUIRED DISCLOSURES

Requirement not to use false or misleading advertising

§651, Business & Professions Code⁶¹

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose

⁶⁰§1387, Code of Regulations

⁶¹ Section 651 is quite lengthy and is not copied in its entirety in this handout due to space limitations.

material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results...

Definition of "Advertising"

§4980.03 Business and Professions Code (marriage & fam)^{62 63}

"Advertise," includes, but is not limited to: Any public communication, as defined in subdivision (a) of Section 651, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. Signs within religious buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

Advertising rules as of April 1, 2013

- 1. Licensees, Interns and registrants must include their license and registration number in all advertisements.**
- 2. Interns may advertise using the designation: "Marriage and Family Therapist Registered Intern" OR "MFT registered intern." If an Intern uses the designation, "MFTI," he/she must spell out the full title of his/her registration, e.g., "marriage and family therapist registered intern." 3. Use of the word "psychotherapy" or "psychotherapist" no longer requires the individual to spell-out the full title of his/her license. The BBS has taken the position that only licensees and registrants may use these words in their advertisements, not trainees.**
- 4. Intern may state in an ad that he/ she is "supervised by a licensed marriage and family therapist," or "supervised by a licensed clinical social worker," etc. Intern may also say, "supervised by Jane Smith, licensed marriage and family therapist, or, "supervised by Jane Smith, LMFT." No specific information regarding the supervisor is required.**

⁶²§4992.2, Business & Professions Code (social workers)

⁶³§4999.12, Business & Professions Code (professional clinical counselors)

Effective April 1, 2013, all advertisements for licensees or registrants of the Board of Behavioral Sciences must contain all of the following information:

1. Your full name, as filed with the Board; and
2. Your license or registration number; and
3. Your complete title, or an abbreviation deemed acceptable by the Board. Acceptable titles and abbreviations are as follows:

If you are a...	You may use the following titles and/or abbreviations in advertisements:
Licensed Marriage and Family Therapist	<ul style="list-style-type: none"> Licensed Marriage and Family Therapist; OR MFT; OR LMFT
Marriage and Family Therapist Registered Intern	<ul style="list-style-type: none"> Marriage and Family Therapist Registered Intern [1]; OR MFT Registered Intern
Licensed Educational Psychologist	<ul style="list-style-type: none"> Licensed Educational Psychologist; OR LEP
Licensed Clinical Social Worker	<ul style="list-style-type: none"> Licensed Clinical Social Worker; OR LCSW
Registered Associate Clinical Social Worker	<ul style="list-style-type: none"> Registered Associate Clinical Social Worker; OR Registered Associate CSW
Registered MFT Referral Service	<ul style="list-style-type: none"> Registered MFT Referral Service
Licensed Professional Clinical Counselor	<ul style="list-style-type: none"> Licensed Professional Clinical Counselor; OR LPCC
Professional Clinical Counselor Registered Intern	<ul style="list-style-type: none"> Professional Clinical Counselor Registered Intern [2]; OR PCC Registered Intern

You may not use the words “psychological” or “psychologist” unless you are a licensed psychologist. Don’t advertise under “psychologist” unless you are a licensed psychologist. There is no such license known as a “licensed psychotherapist.”

Fictitious Business Names

Any licensed therapist who conducts a private practice under a fictitious business name must not use any name that is false, misleading, or deceptive, and is expected to inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.⁶⁴

All licensees must conspicuously display their licenses in their primary place of business.⁶⁵

⁶⁴ §§4980.46; 4996.7; 4996.8, Business & Professions Code

⁶⁵ §§4980.31; 4992.10; 4999.72, Business & Professions Code

§4980.55, Business and Professions Code (marriage & family therapists)

As a model for all therapeutic professions, and to acknowledge respect and regard for the consuming public, all marriage and family therapists are encouraged to provide to each client, at an appropriate time and within the context of the psychotherapeutic relationship, an accurate and informative statement of the therapist's experience, education, specialties, professional orientation, and any other information deemed appropriate by the licensee.

ADVERTISING RULES FOR TRAINEES AND INTERNS

§4980.44, Business and Professions Code (marriage & family therapists)

An unlicensed marriage and family therapist intern employed under this chapter shall comply with the following requirements:

Prior to performing any professional services, the intern or trainee must inform each client or patient:

That he or she is an unlicensed marriage and family therapist registered intern or trainee

Provide his or her registration number and the name of his or her employer

Indicate whether he or she is under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

Any advertisement by or on behalf of a marriage and family therapist registered intern shall include, at a minimum, all of the following information:⁶⁶

That he or she is a marriage and family therapist registered intern.

The intern's registration number

The name of his or her employer

That he or she is supervised by a specified licensed person

The abbreviation "MFTI" shall not be used in an advertisement unless the title "marriage and family therapist registered intern" appears in the advertisement.

⁶⁶§4980.44, Business & Professions Code

§4996.18, Business and Professions Code (assoc. clinical social workers)

A registrant shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.

§4999.45, Business and Professions Code (PCC interns & trainees)
An intern employed under this chapter shall: Inform each client prior to performing any professional services that he or she is unlicensed and under supervision of a licensed professional.

***Psychologists must disclose the following:**

All licensees and registrants are required to post the following notice in a conspicuous location in their principal psychological business office: "NOTICE TO CONSUMERS: The Department of Consumer Affairs's Board of Psychology receives and responds to questions and complaints regarding the practice of psychology. If you have questions or complaints, you may contact the board on the Internet at www.psychboard.ca.gov, by calling 1-866-503-3221, or by writing to the following address: Board of Psychology 1422 Howe Avenue, Suite 22, Sacramento, California 95825-3236." ⁶⁷

Licensed psychologists are required to include their license number in any advertising, public directory or solicitation, regardless of whether such a presentment is made under the licensee's own name, a fictitious business or group name or a corporate name.

Note: Supervisors of psychology trainees are required to inform the patient about the unlicensed status of a Trainee. ⁶⁸

§1387.1, Code of Regulations (psychology trainees)
Primary supervisors shall ensure that each client or patient is informed, prior to the rendering of services by the trainee that the trainee is unlicensed and under supervision

What about advertising in websites?

Supervisors should review and approve any advertising by the intern.
It must be clear that the intern is not an independent practitioner!!!
Problems in this area are a common feature of complaints to the Board and to ethics committees.

⁶⁷§2996, Business & Professions Code

⁶⁸§1387.1, Code of Regulations

FEE-RELATED DISCLOSURES

§4982, Business and Professions Code (marriage and family therapists) **Marriage and family therapists must disclose to the client or prospective client, information concerning the fee to be charged for the professional services, or the basis upon which that fee will be computed, prior to the commencement of treatment. The failure to do so is considered to be unprofessional conduct.**

The above-stated requirement regarding fee-related disclosures is also applicable to Social Workers and Professional Clinical Counselors.⁶⁹

Primary supervisors of psychology trainees: Must ensure that each client or patient is informed, prior to the rendering of services by the trainee that the trainee is unlicensed and is functioning under the direction and supervision of the supervisor and that any fees paid for the services of the trainee must be paid directly to the primary supervisor or employer.⁷⁰

Fee Agreements

The client record should contain a clear written fee agreement. Should problems arise concerning the client's fee, the therapist should attempt to address the issue at the earliest possible opportunity.

Insurance

Thoroughly address the issue of fees and responsibility for payment with every client, before treatment begins. It is important that any issue of fees be addressed completely and that the issue of insurance, including the limitations of insurance benefits, or unknowns about the policy, be identified and discussed with the person(s) responsible for payment at the earliest opportunity.

Services provided by interns and trainees

A client may be unfamiliar with the distinction between a licensed therapist and a registered intern and fail to recognize that his or her health insurance benefits probably don't apply to treatment rendered by the Intern. When services are to be provided by an Intern or Trainee, it is extremely important that the client be informed of the fact that his or her health insurance, (barring some rare exception), will not provide reimbursement for the treatment provided.

Supervisors should ensure that the intern understands and complies with any policies concerning the issue of client fees.

⁶⁹§§4992.3, 4999.90, Business and Professions Code

⁷⁰§1387.1, Code of Regulations

CONSENT TO TREATMENT

Consent with Adults: To be effective, consent must be knowing, intelligent, and voluntary, by a person with capacity to provide consent.

Minors and Consent to Treatment

Who has the authority to provide consent?

§§6550, 6552, Family Code (Caretakers authorization for treatment of a minor)

Relevant sections of the Family Code:

3002 Joint Custody
3003 Joint Legal Custody
3004 Joint Physical Custody
3006 Sole Legal Custody
3007 Sole Physical Custody
3080 Presumption regarding Joint Custody
3083 Joint Custody and consent issues

§6924, California Family Code: Minor consent to mental health treatment

A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied:

(1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.

(2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.

(c) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in paragraph (3) of subdivision (a), shall make his or her best efforts to notify the parent or guardian of the provision of services.

(d) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to

contact the minor's parent or guardian.

(e) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor's parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.

§124260, Health & Safety Code: Minor consent to mental health treatment⁷¹

(b) Notwithstanding any provision of law to the contrary, a minor who is 12 years of age or older may consent to mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.

(c) Notwithstanding any provision of law to the contrary, the mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian, unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(d) The minor's parent or guardian is not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian.

⁷¹ (1) "Mental health treatment or counseling services" means the provision of outpatient mental health treatment or counseling by a professional person, as defined in paragraph (2) "Professional person" means any of the following: (B) A marriage and family therapist, (C) A licensed educational psychologist, (D) A credentialed school psychologist, (E) A clinical psychologist, (F) A licensed clinical social worker, (G) A person registered as a marriage and family therapist intern, (H) A board certified, or board eligible, psychiatrist. (I) A licensed professional clinical counselor (J) A person registered as a clinical counselor intern,

CONFIDENTIALITY AND SELECTED EXCEPTIONS

§4982(m), Business and Professions Code

Failure to maintain confidentiality constitutes unprofessional conduct

§§56-56.13, Civil Code Confidentiality of Medical Information Act

⁷²**§56.10, Calif. Civil Code**, (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c). (b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purpose of adjudication pursuant to its lawful authority. (3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code. (5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or another provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law (7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office (9) When otherwise specifically required by law.

(c) A provider of health care or a health care service plan may disclose medical information as follows:

(1) The information may be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, contractor, or any other person or entity responsible for paying for health care services rendered to the

⁷² Some of the sections of Section 56.10 are not copied in their entirety in this handout.

patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made.

(3) The information may be disclosed to a person or entity that provides billing, claims management, medical data processing, or other administrative services for providers of health care or health care service plans or for any of the persons or entities specified in paragraph (2).

(4) The information may be disclosed to organized committees and agents of professional societies⁷³ or of medical staffs of licensed hospitals, licensed health care service plans, professional standards review organizations, independent medical review organizations and their selected reviewers, utilization and quality control peer review organizations...

(5) The information in the possession of a provider of health care or health care service plan may be reviewed by a private or public body responsible for licensing or accrediting the provider of health care or health care service plan.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office when requested for all purposes not included in paragraph (8) of subdivision (b).

(7) The information may be disclosed to public agencies, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes.

(8) A provider of health care or health care service plan that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information that: (A) Is relevant in a lawsuit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided that information may only be used or disclosed in connection with that proceeding. (B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9)...

⁷³ This applies to the CAMFT Ethics Committee, in their investigation of an ethics complaint.

(10) The information may be disclosed to a health care service plan by providers of health care that contract with the health care service plan and may be transferred among providers of health care that contract with the health care service plan, for the purpose of administering the health care service plan.

(11) This part does not prevent the disclosure by a provider of health care or a health care service plan to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all of the requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(12) The information relevant to the patient's condition, care and treatment provided may be disclosed to a probate court investigator in the course of an investigation required or authorized in a conservatorship proceeding...

(13) The information may be disclosed to an organ procurement organization or a tissue bank processing the tissue of a decedent for transplantation into the body of another person...

(14)...

(15) Basic information, including the patient's name, city of residence, age, sex, and general condition, may be disclosed to state-recognized or federally recognized disaster relief organization for the purpose of responding to disaster welfare inquiries.

(16) The information may be disclosed to a third party for purposes of encoding, encrypting, or otherwise anonymizing data...

(17) For purposes of disease management programs...

(18) The information may be disclosed, as permitted by state and federal law or regulation, to a local health department...

(19) The information may be disclosed, consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined in Section 1010 of the Evidence Code, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the

threat, including the target of the threat.(20) The information may be disclosed as described in Section 56.103.

(21) (A) The information may be disclosed to an employee welfare benefit plan, as defined under Section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1))..

CAMFT Code of Ethics

§2.4 Patient Records- Confidentiality

Marriage and family therapists' store, transfer, transmit, and/or dispose of patient records in ways that protect confidentiality.

Confidentiality Issues When Working With Couples and Families

The "patient" can be a couple, or a family. If that is the case, the rights of confidentiality belong to both members of the couple, or, all of the family members, depending on the case.

§2. Confidentiality

Marriage and family therapists have unique confidentiality responsibilities because the "patient" in a therapeutic relationship may be more than one person. The overriding principle is that marriage and family therapists respect the confidences of their patients.

"No-Secrets" policies

When a "no secrets" policy is utilized, members of the family/couple agree, at the start of treatment, that the therapist is free to share information that he or she learned in an individual session with one of them, with other members of the family/couple, if the therapist believes that the information is relevant to the treatment.

CONFIDENTIALITY WITH MINORS

Minors are entitled to confidentiality

However, the parameters of confidentiality when working with minors are not identical, in general, to those, which exist with adult clients.

Relevant Standard of Care Issues

The general standard of care when working with most minor clients is that the minor's caretaker(s) will be involved in his or her treatment, in some fashion, depending on the circumstances of the case. There are exceptions and variations to this general standard.

The parent or legal guardian can demand to have access to the minor's treatment record. However, California law permits a therapist to decline the

parent's request for access to the minor's record according to the provisions of the Health and Safety Code.

§123115, Health & Safety Code (request for a minor's treatment record)

Parents and guardians have the right to inspect their children's records (so long as the records do not pertain to care for which the minor actually provided the consent.) However:

(a) "The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection or copying under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

RELEASES/AUTHORIZATIONS A parent or guardian must sign the authorization when the parent or guardian consented for the minor's treatment. The minor must sign the authorization if the minor consented to his or her own treatment.

*Note: HIPAA defers to California law concerning minors' health care records and access to those records.

THE PSYCHOTHERAPIST-PATIENT PRIVILEGE

Calif. Evidence Code: Selected sections

§1012 Definition of confidential communication

§917 Presumption of confidentiality

§1013 Definition of holder of privilege

§1015 Therapist duty to claim privilege

§914 Authority of the Court

§1016 Emotional condition tendered by patient, etc.

§912(b) Joint holders of the psychotherapist-patient privilege.

Minors and the Psychotherapist-Patient Privilege

In California, a minor is the holder of the psychotherapist-patient privilege.⁷⁴ A guardian ad litem and/or minor's counsel can assert or waive privilege on behalf of the minor.

§317(f), Health & Welfare Code When a minor is involved in the dependency court, there are special rules related to the psychotherapist-patient privilege. Either the child or the Counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to so consent, which shall be presumed, subject to rebuttal by clear and convincing evidence, if the child is over 12 years of age, may invoke the psychotherapist-client privilege, physician-patient privilege, and clergyman-penitent privilege; and if the child invokes the privilege, Counsel may not waive it, but if counsel invokes privilege, the child may waive it. Counsel shall be holder of these privileges if the child is found by the court not to be of sufficient age and maturity to so consent

RIGHTS OF ACCESS TO THE HEALTH CARE RECORD⁷⁵

§123110, Health & Safety Code (Right of inspection of the record)

Any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing. (b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that shall not exceed twenty-five cents (\$0.25) per page... The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request. All reasonable costs, not exceeding actual costs, incurred by a

⁷⁴ In re: Daniel C.H., (1990) 220 Cal.App.3d 814 (minor as holder of psychotherapist-patient privilege)

⁷⁵ The reader is reminded that statutes listed in this document, including above-listed Health & Safety Codes, are not reproduced in their entirety. In some instances, selected excerpts of statutes and regulations have been utilized in order to illustrate and discuss specific legal issues. The reader should take care to consult the full and current text of any legal or ethical authority being utilized and to seek professional consultation when appropriate.

health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies. Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, any patient or former patient or the patient's representative shall be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal regarding eligibility for a public benefit program...

§123115, Health & Safety Code

(a)....

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions: (1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted. (2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request of the patient...

§164.524 (HIPAA) Access of individuals to protected health information.⁷⁶

(a) Standard: Access to protected health information—(1)Right of access. Except as otherwise provided in paragraph (a)(2) or (a)(3) of this section, an individual has a right of access to inspect and obtain a copy of protected health information about the individual in a designated record set, for as long as the protected health information is maintained in the designated record set, except for:(i) Psychotherapy notes; and (i) A licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the individual or another person; (iii) The request for access is made by the individual's personal representative and a licensed health care professional has determined, in the exercise of professional judgment, that the provision of access to such personal representative is reasonably likely to cause substantial harm to the individual or another person.

⁷⁶ 45 CFR 164.524 (Note: This content is an excerpt of a selected part of this statute)

§123130, Health & Safety Code (Request for summary of the record)

(a) A health care provider may prepare a summary of the record, according to the requirements of this section, for inspection and copying by a patient. If the health care provider chooses to prepare a summary of the record rather than allowing access to the entire record, he or she shall make the summary of the record available to the patient within 10 working days from the date of the patient's request...In preparing the summary of the record the health care provider shall not be obligated to include information that is not contained in the original record. (b) A health care provider may confer with the patient in an attempt to clarify the patient's purpose and goal in obtaining his or her record. If as a consequence the patient requests information about only certain injuries, illnesses, or episodes, this subdivision shall not require the provider to prepare the summary required by this subdivision for other than the injuries, illnesses, or episodes so requested by the patient. The summary shall contain for each injury, illness, or episode any information included in the record relative to the following: (1) Chief complaint or complaints including pertinent history. (2) Findings from consultations and referrals to other health care providers (3) Diagnosis, where determined. (4) Treatment plan and regimen including medications prescribed. (5) Progress of the treatment. (6) Prognosis including significant continuing problems or conditions. (7) Pertinent reports of diagnostic procedures and tests and all discharge summaries. (8)...

§3.3, CAMFT Code of Ethics Clinical Records: Marriage and family therapists create and maintain patient records, whether written, taped, computerized, or stored in any other medium, consistent with sound clinical practice.

§4982(v), Business and Professions Code The failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered is unprofessional conduct.⁷⁷

Retention of records

§4980.49 Business & Professions Code (effective 1/1/2015) (The new law applies to clinical social workers and LPCC's as well.)⁷⁸

A marriage and family therapist shall retain a client's or patient's health service records for a minimum of seven years from the date therapy is terminated. If the client or patient is a minor, the client's or patient's health service records shall be retained for a minimum of seven years from the date the client or the patient reaches 18 years of age. Health service records may be retained in either an electronic or a written format.

⁷⁷ See §4989 (j) for Professional Clinical Counselors; 4992.3(t) for Social Workers. (same language used)

⁷⁸ See §§4992.10; 4999.75 (social workers and professional clinical counselors, retention of records)

§2919, Business & Professions Code A licensed psychologist shall retain a patient's health service records for a minimum of seven years from the patient's discharge date. If the patient is a minor, the patient's health service records shall be retained for a minimum of seven years from the date the patient reaches 18 years of age.

Regarding "Progress Notes" In simple terms, progress notes are brief, written notes in a patient's treatment record, which are produced by a therapist as a means of documenting aspects of his or her patient's treatment, including important issues or concerns that are related to the patient's treatment.

Documenting competent treatment

Progress notes help to create a health care record that reflects sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

Progress notes provide a therapist with an opportunity to document his or her exercise of judgment. If a therapist's conduct is challenged by the patient or by the board, progress notes may help to establish that his or her conduct was ethical and lawful.

Progress notes provide evidence of the patient's need for treatment. **Billing/payment documentation** In the event of a dispute over the amount or type of services rendered, progress notes substantiate that services were rendered and that the therapist's billing was consistent with the nature of services rendered.

TERMINATION-RELATED ISSUES

Although there is no ideal model for termination with a client, **a therapist is expected to manage the termination process with his or her client in a manner that is consistent with the relevant standard of care.** The standard of care, which applies to particular client, depends on the facts and circumstances present in his or her case.⁷⁹ It is therefore important for a therapist to provide some documentation in the treatment record concerning the client's termination plan.^{80 81}

Multiple sections of the CAMFT Code of Ethics are applicable to the issue of termination, including the following:

⁷⁹ In the event of litigation, in order to determine what the standard of care is, a court will typically seek the opinion of a qualified expert.

⁸⁰ If there is anything remarkable about the termination process, such as the client's lack of cooperation, or, if the client refused to accept or follow-thru with a referral, etc., it is appropriate to document such information in the record. It is also suggested that the Therapist comment in the record, when termination progresses smoothly and according to plan.

⁸¹ See, Atkins, Catherine, J.D., "Termination of a Client: Four Vignettes Answered," *The Therapist*, July/Aug., 2009

CAMFT Code of Ethics

§1.31 Termination Marriage and family therapists use sound clinical judgment when terminating therapeutic relationships and do so in an appropriate manner. Reasons for termination may include, but are not limited to, the patient is not benefiting from treatment; continuing treatment is not clinically appropriate; the therapist is unable to provide treatment due to the therapist's incapacity or extended absence, or in order to avoid an ethical conflict or problem.

§1.32 Abandonment Marriage and family therapists do not abandon or neglect patients in treatment. If a therapist is unable or unwilling to continue to provide professional services, the therapist will assist the patient in making clinically appropriate arrangements for continuation of treatment.

How much notice should therapists provide?

The amount of notice that should be provided to a client depends on client need

Termination due to a lack of benefit from treatment

§1.7 Patient Benefit

Marriage and family therapists continually monitor their effectiveness and take steps to improve when necessary. Marriage and family therapists continue therapeutic relationships only so long as it is reasonably clear that patients are benefiting from the relationship.

Termination due to a conflict of interest

A therapist has a conflict of interest, if he or she is engaged in some activity or relationship, which conflicts with his or her ability to discharge his or her duties to a client.⁸² Generally speaking, when a conflict of interest is discovered it is necessary for the therapist to terminate the client's treatment and provide him or her with an appropriate referral.

§1.8 Employment and Contractual Terminations

When terminating employment or contractual relationships, marriage and family therapists primarily consider the best interests of the patient when resolving issues of continued responsibility for patient care.

When the supervisee concludes his or her work in a particular setting, the supervisor should discuss the termination plans for each of the supervisee's clients.

⁸² A dual-relationship exists when a Therapist has a concurrent, non-therapy relationship with a client. A dual-relationship in itself is not unethical, unless there is an associated conflict of interest.

The Supervisor should review his or her supervisee's charts to determine whether the documentation is complete.

Supervisors are free to contact any of the supervisee's clients to ensure that the client is aware of his or her options, etc.

Records are the property of the employer, not the employee or volunteer.

Termination triggered by the departure of interns or trainees

A client should be informed at the start of treatment if his or her therapist is available for a limited period of time, due to the therapist's training schedule

Termination related to non-payment of fees

§1.3.4 Non-Payment of Fees

Marriage and family therapists do not terminate patient "relationships for non-payment of fees except when the termination is handled in a clinically appropriate manner.

When considering termination for non-payment of fees, consider the following questions:

At the start of treatment, was the client given clear and specific information about the fees to be charged and did he or she agree to those terms?

What were the reasons given by the client for non-payment? Were they reasonable?

Was the client given an opportunity to rectify the issue? Did he or she promise to address the payment issues and then fail to do so?

Did the therapist contribute to the problem by permitting the client to accumulate a large debt over a long period of time?

Termination of the vulnerable or "at risk" client

One of the issues that a therapist must consider during the termination process with a client, is whether or not his or her client is particularly vulnerable or "at risk" at that moment in time. If so, the therapist has to consider whether it may be prudent to continue treating the client.

Ambiguous terminations

It is not uncommon to hear a therapist state that his or her client has failed to appear for several sessions, leaving the therapist uncertain about the client's intent to continue in treatment.

One common example involves a client informing his or her therapist that he or she is "taking a break" for a while from treatment.

Unless the therapist can clearly say that the client's treatment has been terminated, there is a possibility that the therapist has a continued responsibility to the client. It is the responsibility of the therapist to clarify with his or her client(s) whether treatment is, or is not continuing.

High-risk scenarios

Variations of these examples are often described in the disciplinary cases reported by licensing boards; in ethics complaints lodged against therapists, and in malpractice (negligence) lawsuits filed against therapists.

Open-ended treatment without a plan

Where treatment takes place over a long period time without identifiable goals, a client may experience the eventual termination of his or her treatment as a personal rejection by the therapist, rather than a logical end to the therapy. When the therapist raises the issue of termination, the client becomes angry, alleging that the therapist has arbitrarily/unilaterally decided to end the relationship, and that he or she was unprepared for such an eventuality. A lack of clinical documentation makes the therapist vulnerable to accusations of unprofessional conduct. The therapist may face a negligence lawsuit, if it were alleged that he or she provided treatment that failed to meet the expected standard of care.

Lack of therapist/client boundaries

Here, the therapist's relationship to his or her client may seem more like a personal friendship, than a therapist-client relationship. The client may have become dependent on his or her therapist over a long period of time, with the therapist assuming a parental role. The client may regard the therapist's attempt to terminate the client's treatment as a rejection by a friend.

Don't terminate a client impulsively or because you are angry or frustrated with him or her.

DUAL RELATIONSHIPS / CONFLICTS OF INTEREST

Dual Relationships are not Per-Se illegal or unethical. A dual relationship may create a conflict of interest or lead to the development of a conflict of interest. This is fertile ground for disciplinary actions and civil liability

CAMFT Code of Ethics

§1.2 Dual Relationships

Marriage and family therapists are aware of their influential position with respect to patients, and they avoid exploiting the trust and dependency of such persons. Marriage and family therapists therefore avoid dual relationships with patients that are reasonably likely to impair professional judgment or lead to exploitation. A dual relationship occurs when a therapist and his/her patient engage in a separate and distinct relationship either simultaneously with the therapeutic relationship, or during a reasonable period of time following the termination of the therapeutic relationship. Not all dual relationships are unethical, and some dual relationships cannot be avoided. When a concurrent or subsequent dual relationship occurs, marriage and family therapists take appropriate professional precautions to ensure that judgment is not impaired and that no exploitation occurs.

§1.2.1 Unethical Dual Relationships

Other acts that would result in unethical dual relationships include, but are not limited to, borrowing money from a patient, hiring a patient, engaging in a business venture with a patient, or engaging in a close personal relationship with a patient. Such acts with a patient's spouse, partner or family member may also be considered unethical dual relationships.

A FEW THINGS THAT THERAPISTS (GENERALLY) DON'T HAVE TO DO:

Writing letters for clients***** A common source of problems! It isn't that you shouldn't ever write a letter for a client. It is more a matter of asking: Why am I writing this letter? Do I want to write this letter? Am I permitted to write this letter?

Preliminary considerations: Before you write a letter, ask yourself:

Do I know why I am writing this letter?

What will happen if I write the letter?

Do I feel uncomfortable writing this letter?

Are you being asked to express an opinion on an issue? If so, are you qualified to express such an opinion? Is there any conflict of interest with your role as psychotherapist?

**Do you possess the necessary information to write the letter?
Is there any scope of practice issue?**

Do you have the necessary waiver(s) of confidentiality?

Did you contemplate this issue at the start of treatment? If so, did you discuss it with your client? What did you tell him/ her about what you would or would not do?

If you said that you would not write a letter, are you now changing your mind? If so, why? Are you being pressured to write the letter?