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CALIFORNIA BOARD OF BEHAVIORAL SCIENCES STATUTES AND REGULATIONS RELATING TO THE PRACTICE OF LICENSED EDUCATIONAL PSYCHOLOGY

CHAPTER 13.5. LICENSED EDUCATIONAL PSYCHOLOGISTS

ARTICLE 1. GENERAL

§4989.14. SCOPE OF PRACTICE

- (a) The practice of educational psychology is the performance of any of the following professional functions pertaining to academic learning processes or the educational system or both:
 - (1) Educational evaluation.
 - (2) Diagnosis of psychological disorders related to academic learning processes.
 - (3) Administration of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
 - (4) Interpretation of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
 - (5) Providing psychological counseling for individuals, groups, and families.
 - (6) Consultation with other educators and parents on issues of social development and behavioral and academic difficulties.
 - (7) Conducting psychoeducational assessments for the purposes of identifying special needs.
 - (8) Developing treatment programs and strategies to address problems of adjustment.
 - (9) Coordinating intervention strategies for management of individual crises.
- (b) For purposes of supervising an associate marriage and family therapist pursuant to Section 4980.03, an associate clinical social worker pursuant to Section 4996.20, or an associate professional clinical counselor pursuant to Section 4999.12, “educationally related mental health services” are mental health services provided to clients who have social, emotional, or behavioral issues that interfere with their educational progress. These services include all of the following:
 - (1) Educationally related counseling services to clients qualified for special education that are necessary to receive a free appropriate public education in the least restrictive environment pursuant to the federal requirements of Section 1412 of Title 20 of the United States Code.
 - (2) Intensive counseling services on a continuum which may reflect an increase in frequency, duration, or staff specialization to address the client’s emotional and behavioral needs.
 - (3) Counseling services provided by qualified practitioners.
 - (4) Parent counseling and training.
 - (5) Psychological services that include consulting with staff members in planning school programs to meet the client’s educational needs and assisting in developing positive behavioral intervention strategies for the client.
 - (6) Social work services such as preparing a social or developmental history on a client with a disability.
 - (7) Group and individualized counseling with the client and family.
 - (8) Mobilizing school and community resources to enable the client to learn as effectively as possible in their educational program, as outlined in Section 300.34 of Title 34 of the Code of Federal Regulations.

ARTICLE 2. LICENSURE

§4989.20. LICENSURE REQUIREMENTS

- (a) The board may issue a license as an educational psychologist if the applicant satisfies, with proof satisfactory to the board, the following requirements:
 - (1) Possession of, at minimum, a master’s degree in psychology, educational psychology, school psychology, counseling and guidance, or a degree deemed equivalent by the board. This degree shall be obtained from an educational institution approved by the board according to the regulations adopted under this chapter.
 - (2) Attainment of 18 years of age.
 - (3) No commission of an act or crime constituting grounds for denial of licensure under Section 480.
 - (4) Successful completion of 60 semester hours of postgraduate work in pupil personnel services.
 - (5) Two years of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools. The applicant shall not be credited with experience obtained more than six years prior to filing the application for licensure.
 - (6) One of the following:
 - (A) One year of supervised professional experience in an accredited school psychology program.
 - (B) In addition to the requirements of paragraph (5), one year of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools obtained under the direction of a licensed educational psychologist or a licensed psychologist.
 - (7) Passage of an examination specified by the board.

§4989.23. REQUIRED COURSEWORK OR SUPERVISED EXPERIENCE: SUICIDE RISK ASSESSMENT AND INTERVENTION

- (a) On or after January 1, 2021, an applicant for licensure as an educational psychologist shall show, as part of the application, that he or she has completed a minimum of six hours of coursework or applied experience under supervision in suicide risk assessment and intervention. This requirement shall be met in one of the following ways:
 - (1) Obtained as part of his or her qualifying graduate degree program. To satisfy this requirement, the applicant shall submit to the board a written certification from the registrar or training director of the educational institution or program from which the applicant graduated stating that the coursework required by this section is included within the institution's curriculum required for graduation at the time the applicant graduated, or within the coursework that was completed by the applicant.
 - (2) Obtained as part of his or her applied experience. Applied experience can be met in any of the following settings: practicum, supervised experience gained pursuant to Section 4989.20, formal postdoctoral placement that meets the requirements of Section 2911, or other qualifying supervised experience. To satisfy this requirement, the applicant shall submit to the board a written certification from the director of training for the program or primary supervisor where the qualifying experience has occurred stating that the training required by this section is included within the applied experience.
 - (3) By taking a continuing education course that meets the requirements of Section 4989.34. To satisfy this requirement, the applicant shall submit to the board a certification of completion.
- (b) As a one-time requirement, a licensee prior to the time of his or her first renewal after January 1, 2021, or an applicant for reactivation or reinstatement to an active license status on or after January 1, 2021, shall have completed a minimum of six hours of coursework or applied experience under supervision in suicide risk assessment and intervention, using one of the methods specified in subdivision (a). Proof of compliance with this section shall be certified under penalty of perjury that he or she is in compliance with this section and shall be retained for submission to the board upon request.

§4989.23.1. REQUIRED TRAINING OR COURSEWORK: PROVISION OF MENTAL HEALTH

SERVICES VIA TELEHEALTH

- (a) On or after July 1, 2023, an applicant for licensure as an educational psychologist shall show, as part of the application, that they have completed a minimum of three hours of training or coursework in the provision of mental health services via telehealth, which shall include law and ethics related to telehealth. This requirement shall be met in one of the following ways:
 - (1) Obtained as part of their qualifying graduate degree program. To satisfy this requirement, the applicant shall submit to the board a written certification from the registrar or training director of the educational institution or program from which the applicant graduated stating that the coursework required by this section is included within the institution's curriculum required for graduation at the time the applicant graduated, or within the coursework that was completed by the applicant.
 - (2) Obtained by completing a continuing education course that meets the requirements of Section 4989.34. To satisfy this requirement, the applicant shall submit to the board a certification of completion.
- (b) As a one-time requirement, a licensee before the time of their first renewal after July 1, 2023, or an applicant for reactivation or reinstatement to an active license status on or after July 1, 2023, shall have completed a minimum of three hours of training or coursework in the provision of mental health services via telehealth, which shall include law and ethics related to telehealth, using one of the methods specified in subdivision (a).
- (c) Proof of compliance with subdivision (b) shall be certified under penalty of perjury that they are in compliance with this section and shall be retained for submission to the board upon request.

ARTICLE 3. RENEWAL AND CONTINUING EDUCATION

§4989.34. CONTINUING EDUCATION REQUIREMENTS

- (a) To renew his or her license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than 36 hours of approved continuing education in, or relevant to, educational psychology.
- (b)
 - (1) The continuing education shall be obtained from either an accredited university or a continuing education provider as specified by the board by regulation.
 - (2) The board shall establish, by regulation, a procedure identifying acceptable providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.
- (c) Training, education, and coursework by approved providers shall incorporate one or more of the following:
 - (1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.
 - (2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.
 - (3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.
- (d) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.
- (e) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.
- (f) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

ARTICLE 4. REGULATION

§4989.48. DISPLAY OF LICENSE

A licensee shall display his or her license in a conspicuous place in the licensee's primary place of practice.

§4989.51. CLIENT RECORDS: RETENTION

- (a) A licensed educational psychologist shall retain a client's health service records for a minimum of seven years from the date therapy is terminated. If the client is a minor, the client's health service records shall be retained for a minimum of seven years from the date the client reaches 18 years of age. Health service records may be retained in either a written or an electronic format.
- (b) This section shall apply only to the records of a client whose therapy is terminated on or after January 1, 2015.

§4989.52. COMPENSATION IN RELATION TO PROFESSIONAL COUNSELING SERVICES

All consideration, compensation, or remuneration received by the licensee shall be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made to the client.

ARTICLE 5. ENFORCEMENT

§4989.54. UNPROFESSIONAL CONDUCT

The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

- (a) Conviction of a crime substantially related to the qualifications, functions, and duties of an educational psychologist.
 - (1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
 - (2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.
 - (3) A conviction has the same meaning as defined in Section 7.5.
 - (4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence. All actions pursuant to this subdivision shall be taken pursuant to Division 1.5 (commencing with Section 475).
- (b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.
- (c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license. The board shall deny an application for a license or revoke the license of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing educational psychology.
- (d) Failure to comply with the consent provisions in Section 2290.5.
- (e) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.
- (f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.
- (g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.
- (h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.
- (i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as an educational psychologist, a clinical social worker, professional clinical counselor, or marriage and family therapist.
- (j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.
- (k) Gross negligence or incompetence in the practice of educational psychology.
- (l) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.
- (m) Intentionally or recklessly causing physical or emotional harm to any client.
- (n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.
- (o) Before the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.
- (p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.
- (q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

- (r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.
- (s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.
- (t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.
- (u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.
- (v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.
- (w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.
- (x) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.
- (y) (1) Engaging in an act described in Section 261, 286, 287, or 289 of, or former Section 288a of, the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.
(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.
- (z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.
- (aa) Impersonation of another by any licensee or applicant for a license, or, in the case of a licensee, allowing any other person to use his or her license.
- (ab) Permitting a person under his or her supervision or control to perform, or permitting that person to hold himself or herself out as competent to perform, professional services beyond the level of education, training, or experience of that person.
- (ac) The violation of any statute or regulation governing the gaining and supervision of experience of an unlicensed person, including an unlicensed person identified in subdivision (ab), by a licensee that violates this chapter, the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)), the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)), or any rules or regulations adopted by the board pursuant to those provisions. For purposes of this subdivision, "unlicensed person" is defined in subdivision (r).
- (ad) The violation of any statute or regulation governing the gaining and supervision of experience of an unlicensed person required by the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)), or the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10)).

§4989.56. REVOCATION OF LICENSE; USE OF DRUGS IN PRACTICE

The board shall revoke the license of a licensee, other than one who is also licensed as a physician and surgeon, who uses or offers to use drugs in the course of his or her practice as an educational psychologist.

§4989.58. REVOCATION OF LICENSE DUE TO SEXUAL CONTACT WITH A CLIENT

The board shall revoke the license of a licensee upon a decision that contains a finding of fact that the licensee engaged in an act of sexual contact, as defined in Section 729, when that act is with a client, or with a former client and the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.