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CALIFORNIA BOARD OF BEHAVIORAL SCIENCES STATUTES AND REGULATIONS RELATING TO THE PRACTICE OF CLINICAL SOCIAL WORK

CHAPTER 14. SOCIAL WORKERS

§4991. CLINICAL SOCIAL WORKER PRACTICE ACT

This chapter shall be known, and may be cited, as the Clinical Social Worker Practice Act. It shall be liberally construed to effect its objectives.

§4991.2. DEFINITION OF ACCREDITED SCHOOL OF SOCIAL WORK

- (a) "Accredited school of social work," within the meaning of this chapter, is a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.
- (b) "Board" means the Board of Behavioral Sciences.

ARTICLE 2. APPLICATION OF CHAPTER

§4992. LICENSE APPLICATION; FEES

- (a) Every applicant for a license under this chapter shall file an application with the board accompanied by the application fee prescribed by this chapter. Every application shall also be accompanied by the examination fee prescribed by this chapter.
- (b) The application shall contain information showing that the applicant has all the qualifications required by the board for admission to the examination.

§4992.05. REQUIRED EXAMINATIONS

- (a) A registrant or an applicant for licensure as a clinical social worker shall pass the following two examinations as prescribed by the board:
 - (1) A California law and ethics examination.
 - (2) A clinical examination.
- (b) Upon registration with the board, an associate social worker registrant, within the first year of registration, shall take an examination on California law and ethics.
- (c) A registrant or an applicant for licensure may take the clinical examination only upon meeting all of the following requirements:
 - (1) Completion of all education requirements.
 - (2) Passage of the California law and ethics examination.
 - (3) Completion of all required supervised work experience.

§4992.07. EXAMINATION RESTRUCTURE TRANSITION SCENARIOS

- (a) An applicant who had previously taken and passed the standard written examination but had not passed the clinical vignette examination shall also obtain a passing score on the clinical examination in order to be eligible for licensure.
- (b) An applicant who had previously failed to obtain a passing score on the standard written examination shall obtain a passing score on the California law and ethics examination and the clinical examination.
- (c) An applicant who had obtained eligibility for the standard written examination shall take the California law and ethics examination and the clinical examination.
- (d) This section shall become operative on January 1, 2016.

§4992.09. CALIFORNIA LAW AND ETHICS EXAMINATION

- (a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.
- (b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.
- (c) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (d).
- (d) The board shall not issue a subsequent registration number unless the applicant has passed the California law and ethics examination.
- (e) A registrant shall complete a minimum of three hours of continuing education in the subject of California law and ethics during each renewal period to be eligible to renew their registration, regardless of whether they have passed the California law and ethics examination. The coursework shall be obtained from a board-accepted provider of continuing education, as specified in Section 4996.22.

§4992.1. ELIGIBILITY FOR EXAMINATION; EXAMINATION RECORD RETENTION; SEVEN YEAR LIMITATION ON CLINICAL EXAMINATION

- (a) Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take an examination under this chapter.
- (b) Every applicant who is issued a clinical social worker license shall be examined by the board.

- (c) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.
- (d) The board shall not deny any applicant, whose application for licensure is complete, admission to the clinical examination, nor shall the board postpone or delay any applicant's clinical examination or delay informing the candidate of the results of the clinical examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.
- (e) If an applicant for examination who has passed the California law and ethics examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical examination for licensure, but may notify the applicant that licensure will not be granted pending completion of the investigation.
- (f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination or the clinical examination permission to retake either examination pending completion of the investigation of any complaint against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, or the applicant has been denied in accordance with subdivision (b) of Section 485.
- (g) Effective January 1, 2016, no applicant shall be eligible to participate in the clinical examination if he or she fails to obtain a passing score on the clinical examination within seven years from his or her initial attempt, unless he or she takes and obtains a passing score on the current version of the California law and ethics examination.
- (h) A passing score on the clinical examination shall be accepted by the board for a period of seven years from the date the examination was taken.

§4992.2 ADVERTISING

"Advertising," as used in this chapter, 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, magazine, or directory, or any printed matter whatsoever, with or without any limiting qualification. Signs within religious buildings or notices in bulletins from a religious organization mailed to a congregation are not construed as advertising within the meaning of this chapter.

§4992.3. UNPROFESSIONAL CONDUCT; EFFECT ON LICENSEE OR REGISTRANT

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

- (a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 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 or registrant under this chapter. A conviction has the same meaning as defined in Section 7.5. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration 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 or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.
- (c) Administering to themselves any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under the person's care.
- (d) Incompetence in the performance of clinical social work.
- (e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.
- (f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.
- (g) Misrepresentation as to the type or status of a license or registration held by the licensee or registrant or otherwise misrepresenting or permitting misrepresentation of the licensee's or registrant's education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.
- (h) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use the licensee's or registrant's license or registration.
- (i) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

- (j) Intentionally or recklessly causing physical or emotional harm to any client.
- (k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.
- (l) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, 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 clinical social worker.
- (m) Performing, or holding oneself out as being able to perform, or offering to perform or permitting, any registered associate, trainee, or applicant for licensure under supervision to perform any professional services beyond the scope of the license authorized by this chapter.
- (n) Failure 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.
- (o) Prior to 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. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. This subdivision does not prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (o).
- (q) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.
- (r) Reproduction or description in public, or in any publication subject to general public distribution, of 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. A licensee shall limit access to that test or device to persons with professional interest who are expected to safeguard its use.
- (s) Any conduct in the supervision of any registered associate, trainee, or applicant for licensure by any licensee that violates this chapter or any rules or regulations adopted by the board.
- (t) Performing or holding oneself out as being able to perform mental health services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.
- (u) Permitting an applicant for licensure, trainee, or registrant under one's supervision or control to perform, or permitting the supervisee to hold himself out as competent to perform, mental health services beyond the supervisee's level of education, training, or experience.
- (v) The violation of any law governing the gaining or supervision of experience required by this chapter.
- (w) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.
- (x) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.
- (y) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.
- (z) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.
- (aa) Failure to comply with the procedures set forth in Section 2290.5 when delivering health care via telehealth.
- (ab) (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.
- (ac) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

§4992.33. DECISION CONTAINING FINDING THAT LICENSEE OR REGISTRANT ENGAGED IN SEXUAL CONTACT WITH PATIENT OR FORMER PATIENT; ORDER OF REVOCATION

The board shall revoke any license issued under this chapter upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 729, when that act is with a patient, or with a former patient when 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.

§4992.35. GROUNDS FOR REFUSAL TO LICENSE OR REGISTER; MENTAL ILLNESS OR CHEMICAL DEPENDENCY

The board may refuse to issue any registration or license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or registration pursuant to this section.

§4992.36. DISCIPLINARY ACTION BY ANOTHER LICENSING BOARD; GROUNDS FOR APPLICATION DENIAL OR LICENSE OR REGISTRATION SUSPENSION OR REVOCATION

The board may deny any application, or may suspend or revoke any license or registration issued under this chapter, for any of the following:

- (a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice clinical social work or any other healing art shall constitute grounds for disciplinary action for unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.
- (b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice marriage and family therapy, or educational psychology against a licensee or registrant shall also constitute grounds for disciplinary action for unprofessional conduct under this chapter.

§4992.4. CONDUCT OF PROCEEDINGS

The proceedings for the suspension or revocation of licenses under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

§4992.5. TIME AND PLACE OF EXAMINATIONS

Examinations may be held at those times and places as the board may determine. However, one examination shall be held during each calendar year.

The board may make arrangements with organizations furnishing examination materials as it may deem desirable.

§4992.7. FALSE STATEMENTS OR IMPERSONATION IN CONNECTION WITH APPLICATION OR EXAMINATION; MISDEMEANOR

Every person who willfully makes any false statement or who impersonates any other person or permits or aids any other person to impersonate him or her in connection with any application or examination is guilty of a misdemeanor.

§4992.8. LICENSEE OR REGISTRANT NAME CHANGE

A licensee or registrant shall give written notice to the board of a name change, giving both the old and new names. The written notice shall be submitted to the board within 30 days of the issuance of a new government-issued photographic identification. The licensee or registrant shall certify the information is correct by signing a statement under penalty of perjury. A copy of both of the following documents evidencing the change shall be submitted with the notice:

- (a) A current government-issued photographic identification.
- (b) The legal document authorizing the name change, such as a court order or a marriage certificate.

§4992.10. FICTITIOUS BUSINESS NAME

A licensed clinical social worker who conducts a private practice under a fictitious business name shall not use a name that is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

§4993. CLIENT RECORDS: RETENTION

- (a) A licensed clinical social worker 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 patient 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 or patient whose therapy is terminated on or after January 1, 2015.