

Agenda Item 12(f):

Licensing Committee

Limitations of Exemption
Period

[2910 & W&I 5751.2]

Hand carry; to be given out
at the meeting

Department of Consumer Affairs
Board of Psychology


February 20-21, 2014 Board Meeting
Sacramento, CA

Hand-Carry
Agenda Item

Agenda Item 12(f) – Limitations of Exemption Period
[2910 & W&I 5751.2]



MEMORANDUM

DATE	February 19, 2014
TO	Psychology Board Members
FROM	 Lavinia Snyder Licensing/Registration Coordinator
SUBJECT	Agenda Item 12 (f) Discuss Limitations of Exemption Period Granted under Business and Professions Code Section 2910 and Welfare & Institutions Code Section 5751.2

At the last Board meeting, the Board decided to pursue statutory or regulatory amendments to both define direct and mental health services as well as cross reference the Welfare and Institutions Code in order to limit the period of exemption and ensure that the Psychology Licensing Law and other code sections concerning the employment of people performing psychological services are consistent.

Attached is the proposed draft language provided by Norine Marks, legal counsel for the Board of Psychology.

Action Requested:

The Board must determine if the recommended revisions are acceptable. If acceptable, the motion necessary would be to give staff the authority to pursue the regulatory change as written (barring any non-substantive changes).

**Department of Consumer Affairs
Board of Psychology**

Draft Language

Proposed additions are shown as underlined.
Proposed deletions are shown as ~~strike-through~~.

§ 1382.5. Spousal or Partner Abuse Assessment, Detection, and Intervention Strategies Training Requirements.

All persons applying for a license as a psychologist who began their graduate training on or after January 1, 1995 shall, in addition to all other requirements for licensure, have completed coursework in spousal or partner abuse assessment, detection, and intervention strategies and shall submit documentation thereof to the board. The coursework in spousal or partner abuse assessment, detection, and intervention strategies shall consist of not less than a combined total of two (2) hours focused on this topic. All persons applying for a license as a psychologist who began their graduate training on or after January 1, 2004 shall also meet the above requirement, however, such course shall consist of at least fifteen (15) contact hours.

The coursework shall be:

- (a) taken in fulfillment of other educational requirements in the applicant's graduate and/or doctoral training, or
- (b) taken in a separate course approved by the board's recognized continuing education accrediting agency, or
- (c) taken in a separate course provided by a sponsor approved by the American Psychological Association.
- (d) completed after January 1, 1995.

An applicant may request an exemption from this requirement if he or she intends to practice in an area that does not include the ~~direct~~ provision of mental health services.

Note: Authority cited: Sections 2914(f) and 2930, Business and Professions Code. Reference: Section 2914(f), Business and Professions Code.

§ 1386.9. Direct Mental Health.

“Direct” mental health services” means, for the purposes of sections 2909 and 2910 of the Code, providing those services at the person’s own direction and discretion, and not at the direction of or under the supervision of a licensed psychologist or board certified psychiatrist.

Note: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 2909 and 2910, Business and Professions Code.

§ 1387. Supervised Professional Experience.

This section applies to all trainees, pre- or post-doctoral, who intend for hours of supervised professional experience (SPE) to count toward meeting the licensing requirement stated in section 2914(c) of the Business and Professions Code. Those trainees accruing hours of supervised experience in areas of psychology that do not include direct mental health services should refer to section 1387.3 for information on establishing an alternate plan for SPE.

SPE is defined as an organized program that consists of a planned, structured and administered sequence of professionally supervised comprehensive clinical training experiences. SPE shall have a logical training sequence that builds upon the skills and competencies of trainees to prepare them for the independent practice of psychology once they become licensed.

SPE shall include socialization into the profession of psychology and shall be augmented by integrated modalities including mentoring, didactic exposure, role-modeling, enactment, observational/ vicarious learning, and consultative guidance.

SPE shall include activities which address the integration of psychological concepts and current and evolving scientific knowledge, principles, and theories to the professional delivery of psychological services to the consumer public.

SPE shall include only the time spent by the trainee engaged in psychological activities that directly serve to prepare the trainee for the independent practice of psychology once licensed. SPE shall not include custodial tasks such as filing, transcribing or other clerical duties.

The term "trainee" as used in these regulations means a psychology trainee working under one of the conditions listed in subsections (a)(1) and (a)(2) of this section.

(a) Pursuant to section 2914(c) of the ~~code~~ Code, two years of qualifying SPE shall be completed and documented prior to licensure. One year of SPE shall be defined as 1500 hours. At least one year of SPE shall be completed postdoctorally. Each year of SPE shall be completed within a thirty (30) consecutive month period. If both years of SPE (3000 hours) are completed postdoctorally, they shall be completed within a sixty (60) month period. Upon showing of good cause as determined by the board, these specified time limitations may be reasonably modified.

(1) Predoctoral SPE: Up to 1500 hours of SPE may be accrued predoctorally but only after completion of 48 semester/trimester or 72 quarter units of graduate coursework in psychology not including thesis, internship or dissertation. Predoctoral SPE may be accrued only as follows:

(A) In a formal internship placement pursuant to section 2911 of the ~~code~~ Code, which is accredited by the American Psychological Association (APA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC) or the California Psychology Internship Council (CAPIC) and registration with the board is not required. A formal internship placement that actually began prior to January 1, 2007, that meets the membership requirements of, but is not a member of, APPIC or CAPIC will satisfy the requirements of this section; or

(B) As an employee of an exempt setting pursuant to section 2910 of the ~~eode~~ Code and registration with the board is not required; or

(C) As a psychological assistant pursuant to section 2913 of the ~~eode~~ Code and registration with the board prior to commencing work is required; or

(D) Pursuant to a Department of Mental Health Waiver (section 5751.2 Welfare and Institutions Code) for which registration with the board is not required.

(2) Postdoctoral SPE: At least 1500 hours of SPE shall be accrued postdoctorally. "Postdoctorally" means after the date certified as "meeting all the requirements for the doctoral degree" by the Registrar or Dean of the educational institution, or by the Director of Training of the doctoral program. Postdoctoral SPE may be accrued only as follows:

(A) For postdoctoral SPE accrued on or after January 1, 2006, in a formal postdoctoral training program pursuant to section 2911 of the ~~eode~~ Code, which is accredited by the American Psychological Association (APA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC) or the California Psychology Internship Council (CAPIC) and registration with the board is not required; or

(B) As a registered psychologist pursuant to section 2909(d) of the ~~eode~~ Code and registration with the board prior to commencing work is required; or

(C) As an employee of an exempt setting pursuant to section 2910 of the ~~eode~~ Code and registration with the board is not required; or

(D) As a psychological assistant pursuant to section 2913 of the ~~eode~~ Code and registration with the board prior to commencing work is required; or

(E) Pursuant to a Department of Mental Health Waiver (5751.2 Welfare and Institutions Code) for which registration with the board is not required.

(b) Supervision Requirements:

(1) Primary supervisors shall meet the requirements set forth in section 1387.1.

(2) Delegated supervisors shall meet the requirements set forth in section 1387.2.

(3) 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.

(4) 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.

- (5) A maximum of forty four (44) hours per week will be credited toward meeting the SPE requirement. This shall include the required 10% supervision.
- (6) 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 SPE. This availability may be in-person, by telephone, by pager or by other appropriate technology.
- (7) 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.
- (8) SPE shall not be obtained from supervisors who have received payment, monetary or otherwise, from the trainee for the purpose of providing such supervision.
- (9) SPE 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.
- (10) Except for the accrual of SPE 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 SPE, including how socialization into the profession will be achieved.

Additionally, the document shall reflect that both supervisor and supervisee have discussed and understand each term of SPE as required by the California Code of Regulations. The primary supervisor shall maintain the document until the hours of supervised experience are completed. Once the supervised experience outlined in the document has been completed, the primary supervisor shall submit directly to the Board both the document and a verification of the experience signed by the primary supervisor under penalty of perjury. The verification shall certify to completion of the hours consistent with the terms of the supervision agreement document. The supervisor must indicate, in his/her best professional judgment, whether the supervisee demonstrated an overall performance at or above the level of minimal competence expected for the supervisee's level of education, training and experience. When SPE is accrued in a formal predoctoral internship or postdoctoral training program, the program's training director shall be authorized to perform the verification and rating duties of the primary supervisor provided that the internship training director is a licensed psychologist who possesses a valid, active license free of any disciplinary action.

(11) Due to lack of standardization in training, a psychological assistant in a private practice setting shall submit the plan as described in subsection (b)(10) for supervised professional experience to the Board for prior approval as provided for in section 2914(c) of the Code prior to the accrual of SPE. A private practice setting is defined as those settings allowed pursuant to section 1387(a)(1)(C) and 1387(a)(2)(C), except a Welfare and Institutions Code section 5614 clinic or a Health and Safety Code section 1204.1 clinic. SPE that is accrued prior to the approval of the plan will not count toward qualifying the applicant for licensure.

(c) Delegated Supervision Requirements:

(1) Except as provided in 1391.5, which regulates the supervision of psychological assistants, 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.

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

(3) The primary supervisor remains responsible for ensuring compliance with this section.

Note: Authority cited: Section 2930, Business and Professions Code. Reference: Sections 2911 and 2914, Business and Professions Code.

§ 1387.3. Alternate Plan for Supervised Professional Experience in Non-Mental Health Services.

This section pertains only to those trainees who are preparing for practice, once licensed, in the non-mental health areas of the profession of psychology.

Due to lack of training sites and qualified supervisors, typically in the area of applied psychological research, industrial-organizational psychology, media and social-experimental psychology, but not including those involving direct mental health services, trainees in these areas of psychology shall submit a plan for supervised professional experience to the board for approval on a case-by-case basis as provided for in section 2914(c) of the Code. In all such cases, the proposed plan must be submitted by the supervisee and approved by the board prior to commencement of supervision. Supervised professional experience (SPE) which is accrued prior to the approval of the plan will not count towards licensure.

(a) Supervision Plan Required

The proposed supervision plan ("plan") submitted by the trainee for approval shall be signed by all participants involved. It shall describe the qualifications and responsibilities of the supervisor (and co-supervisor, if appropriate) for supervision. The plan shall be developed for and shall demonstrate appropriate preparation of the trainee to practice effectively in non-mental health services, and within the specific non-mental health setting. The plan shall address how the quality of work done by the trainee working in a non-mental health role will be monitored and

assure protection of the client. As used in this section, "trainee" means a psychology trainee working under the provisions of this section.

(b) Hours and Setting Requirements

(1) Pursuant to section 2914(c) of the ~~code~~-Code, two years of qualifying SPE shall be completed and documented prior to licensure. One year of SPE shall be defined as 1500 hours. At least one year of SPE shall be completed postdoctorally. Each year of SPE shall be completed within a thirty (30) consecutive month period. If both years of SPE (3000 hours) are completed postdoctorally, they shall be completed within a sixty (60) month period. Upon showing of good cause as determined by the board, these specified time limitations may be reasonably modified.

(2) Predoctoral SPE under this section may be accrued only as follows:

(A) In a formal internship placement pursuant to section 2911 of the ~~code~~-Code and registration with the board is not required; or

(B) As an employee of an exempt setting pursuant to section 2910 of the ~~code~~-Code and registration with the board is not required; or

(C) As a psychological assistant pursuant to section 2913 of the ~~code~~-Code and registration with the board prior to commencing work is required.

(3) Postdoctoral SPE may be accrued only as follows:

(A) As a psychological assistant pursuant to section 2913 of the ~~code~~-Code and registration with the board prior to commencing work is required; or

(B) As a registered psychologist pursuant to section 2909(d) of the ~~code~~-Code and registration with the board prior to commencing work is required; or

(C) As an employee of an exempt setting pursuant to section 2910 of the ~~code~~-Code and registration with the board is not required.

(c) Supervision Requirements

(1) The trainee shall be provided with supervision for 10% of the total time worked each month. At least four hours per month shall be face-to-face, direct, individual supervision with the primary supervisor. The plan shall address how the supervision will be provided. The remainder of the 10% may be provided by the delegated supervisor or co-supervisor and may include supervision via electronic means.

(2) A maximum of forty-four (44) hours per week, including the required 10% supervision, may be credited toward meeting the supervised professional experience requirement.

(3) The trainee shall have no proprietary interest in the business of the primary, delegated or co-supervisor and shall not serve in any capacity that would hold influence over the primary, delegated or co-supervisor's judgment in providing supervision.

(4) Neither the primary supervisor nor any delegated or co-supervisor shall receive payment, monetary or otherwise, from the trainee for the purpose of providing supervision.

(5) The trainee will not function under any other license with the same client or in the same setting during the supervised experience accrued pursuant to the plan.

(6) A clear and accurate record of the trainee's supervision shall be maintained. The trainee shall maintain this record in an SPE log pursuant to section 1387.5 but shall also include information relevant to the co-supervisor;

(7) Except as provided in section 1391.5(c), a primary supervisor who is a licensed psychologist may delegate supervision pursuant to section 1387.2.

(8) If the primary supervisor is unlicensed, the trainee shall also obtain a co-supervisor who meets the requirements of subsection (f).

(d) Qualifications and Responsibilities of Primary Supervisors

The primary supervisor shall:

(1) possess a degree that meets the requirements of section 2914(b) of the ~~code~~ Code;

(2) meet the requirements of section 2913 of the ~~code~~ Code if supervising a psychological assistant;

(3) if licensed, possess and maintain a valid, active license issued by the board free of any formal disciplinary action during the period of supervision covered by the plan. The primary supervisor shall notify the trainee of any disciplinary action that disqualifies him or her from providing supervision. If not licensed, the primary supervisor shall never have been denied, or possessed a professional license for providing psychological or other mental health services issued by any jurisdiction that was subject to discipline, or surrendered with charges pending;

(4) be employed or contracted by the same organization as the trainee;

(5) be available to the trainee 100% of the time the trainee is accruing SPE pursuant to the plan. This availability may be in person, through telephone, pager or other appropriate technology(ies);

(6) if licensed, complete a minimum of six hours of supervision coursework every two years as described in section 1387.1(b);

- (7) ensure that all parties work together throughout the training experience to ensure that the trainee will be engaged in duties that are considered doctoral level;
- (8) maintain ongoing communication between all parties regarding supervisory needs and experiences;
- (9) ensure that all parties to the plan comply at all times with the provisions of the Psychology Licensing Law or the Medical Practice Act, whichever might apply, and the regulations adopted pursuant to these laws;
- (10) ensure that all SPE accrued under the plan complies with the Ethical Principles and Code of Conduct of the American Psychological Association;
- (11) monitor the welfare of the trainee's clients;
- (12) ensure that each client of the trainee is informed prior to rendering of services by the trainee that the trainee is unlicensed and is functioning under the direction and supervision of the primary supervisor;
- (13) monitor the performance and professional development of the trainee which shall include socialization into the practice of psychology;
- (14) have the education, training, and experience in the area(s) of psychological practice for which they are providing supervision;
- (15) have or have had no familial, intimate, sexual, social, or professional relationship with the trainee which could compromise the supervisor's effectiveness, or would violate the Ethical Principles and Code of Conduct of the American Psychological Association;
- (16) not supervise a trainee who is a current or former client of psychological services provided by the supervisor; and
- (17) monitor the supervision performance of all delegated supervisors and co-supervisors.

Note: Authority cited: Section 2930, Business and Professions Code. Reference: Section 2914, Business and Professions Code.

Applicability to School and Public Employees

§ 2909. Nothing in this chapter shall be construed as restricting or preventing activities of a psychological nature or the use of the official title of the position for which they were employed on the part of the following persons, provided those persons are performing those activities as part of the duties for which they were employed, are performing those activities solely within the confines of or under the jurisdiction of the organization in which they are employed and do not offer to render or render psychological services as defined in Section 2903 to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization in which they are employed:

(a) Persons who hold a valid and current credential as a school psychologist issued by the California Department of Education.

(b) Persons who hold a valid and current credential as a psychometrist issued by the California Department of Education.

(c) Persons employed in positions as psychologists or psychological assistants, or in a student counseling service, by accredited or approved colleges, junior colleges or universities; federal, state, county or municipal governmental organizations which are not primarily involved in the provision of direct health or mental health services. However, those persons may, without obtaining a license under this act, consult or disseminate their research findings and scientific information to other such accredited or approved academic institutions or governmental agencies. They may also offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter.

(d) Persons who meet the educational requirements of subdivision (b) of Section 2914 and who have one year or more of the supervised professional experience referenced in subdivision (c) of Section 2914, if they are employed by nonprofit community agencies that receive a minimum of 25 percent of their financial support from any federal, state, county, or municipal governmental organizations for the purpose of training and providing services. Those persons shall be registered by the agency with the board at the time of employment and shall be identified in the setting as a "registered psychologist." Those persons shall be exempt from this chapter for a maximum period of 30 months from the date of registration.

Amended by Stats. 2005, ch. 658, § 2 (SB 229).

Academic or Governmental Employees—Exemption

§ 2910. Nothing in this chapter shall be construed to restrict or prevent activities of a psychological nature on the part of persons who are salaried employees of accredited or approved academic institutions, public schools or governmental agencies, provided:

- (a) Such employees are performing such psychological activities as part of the duties for which they were hired;
- (b) Such employees are performing those activities solely within the jurisdiction or confines of such organizations;
- (c) Such persons do not hold themselves out to the public by any title or description of activities incorporating the words “psychology,” “psychological,” “psychologist,” “psychometry,” “psychometrics” or “psychometrist”;
- (d) Such persons do not offer their services to the public for a fee, monetary or otherwise;
- (e) ~~Such persons do not provide direct health or mental health services.~~

Amended by Stats. 1979, ch. 996, § 3.

Applicant’s Requirements

§ 2914. Each applicant for licensure shall comply with all of the following requirements:

- (f) (1) Show by evidence satisfactory to the board that he or she has completed coursework in spousal or partner abuse assessment, detection, and intervention. This requirement applies to applicants who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003.
- (2) An applicant who began graduate training on or after January 1, 2004, shall show by evidence satisfactory to the board that he or she has completed a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. An applicant may request an exemption from this requirement if he or she intends to practice in an area that does not include the ~~direct provision of mental health services.~~

Continuing Education Requirements; Practice Outside Fields of Competence

§ 2915. (a) Except as provided in this section, on or after January 1, 1996, the board shall not issue any renewal license unless the applicant submits proof that he or she has completed no less than 18 hours of approved continuing education in the preceding year. On or after January 1, 1997, except as provided in this section, the board shall issue renewal licenses only to those applicants who have completed 36 hours of approved continuing education in the preceding two years.

(d) (1) The continuing education requirement shall include, but shall not be limited to, courses required pursuant to Sections 25 and 28. The requirement may include courses pursuant to Sections 32 and 2914.1.

(2) (A) The board shall require a licensed psychologist who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement.

(B) Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under subdivision (a).

(C) A licensed psychologist whose practice does not include the direct provision of mental health services may apply to the board for an exemption from the requirements of this paragraph.

(3) Continuing education instruction approved to meet the requirements of this section shall be completed within the State of California, or shall be approved for continuing education credit by the American Psychological Association or its equivalent as approved by the board.

Added by Stats. 2002, ch. 481, § 3 (SB 564), operative January 1, 2004.