



Board of  
Behavioral  
Sciences

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**EXEMPT SETTING COMMITTEE MEETING NOTICE**  
**January 20, 2017**  
**10:00 a.m.**

Department of Consumer Affairs  
El Dorado Room  
1625 North Market Blvd., 2<sup>nd</sup> Floor  
Sacramento, CA 95834

1. Call to Order and Establishment of Quorum
2. Introductions\*
3. Purpose of the Committee
4. Presentation of Current Definitions for Exempt and Private Practice Settings
5. Review of Other State Agencies Definitions for Exempt and Private Practice Settings
6. Discussion of Issues Related to Exempt and Private Practice Settings
7. Discussion Regarding Possible Survey Topics Related to Exempt and Private Practice Settings
8. Future Meeting Dates
9. Public Comment for Items not on the Agenda
10. Suggestions for Future Agenda Items
11. Adjournment



Governor  
Edmund G. Brown Jr.

State of California  
Business, Consumer Services  
and Housing Agency

Department of  
Consumer Affairs

*\*Introductions are voluntary for members of the public*

*Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times and order of items are approximate and subject to change. Action may be taken on any item listed on the Agenda.*

*This agenda as well as Board meeting minutes can be found on the Board of Behavioral Sciences website at [www.bbs.ca.gov](http://www.bbs.ca.gov).*

*NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or send a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.*

## **Exempt Setting Committee**

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The Exempt Setting Committee was appointed in November 2016. The Committee will review practice within an exempt setting to determine if consumers are receiving services consistent with the standard of care for the mental health professions. The Committee will also focus on ensuring consumer protection within an exempt setting.

The Committee's work will focus on gathering information related to practice in an exempt setting; such as reviewing existing law, evaluating other state agencies practice and law. Further, the Committee will identify areas for improvement that are within the Board's regulatory authority.

The Committee will hold a series of meetings to conduct an open ended inquiry gathering information and data. Stakeholders and interested parties will be given an opportunity to provide input, feedback, and express their concerns.

It is anticipated that this process will take approximately 18 months to complete, with the committee's recommendations presented to the Board in the summer of 2018.

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**Attachment A** contains the sections of the Board's statutes and regulations which discuss exempt settings and professions.

**Attachment B** discusses IRS Code 501(c)(3), which is the IRS's definition of a nonprofit and charitable institution. While the Board's licensing law exempts employees of nonprofit and charitable institutions from licensure, it does not provide a definition of such an institution. It also does not reference the IRS definition.

Some other state agencies provide licensure exemptions for specific amounts of time for their employees. This includes employees within the State Department of Corrections (**Attachment C**), employees within state health facilities (**Attachment D**), and employees of local mental health programs (**Attachment E**). After the exemption timeframe has passed, employees in these settings are required to have a license, even though under the Board's licensing laws, these are considered exempt settings.

### **Current Private Practice Settings**

The term "private practice" is used frequently in the Board's licensing laws. The law places specific requirements on individuals working in a private practice setting. Examples of these requirements include, but are not limited to, the following:

- You must have a license or registration to work in a private practice.
- You cannot work in a private practice setting with a second registration number.
- Trainees cannot work in a private practice setting.
- A licensee in private practice may not supervise or employ more than three registrants at a time.

However, the law does not consistently provide an exact definition of a private practice, and it does not provide definitions covering all of the various types of practices. As a result, it can be unclear if the Board's laws apply in certain settings. For example, is a hospital setting a private practice? What about a business that is a nonprofit, but that is not charitable? These are not exempt settings, but do not seem to fit the typically understood meaning of private practice (a therapist independently seeing clients as part of his or her own business.)

In some instances, the law provides a vague definition of what a private practice is *not*. LMFT statute states that a trainee may be credited with experience in a setting that meets certain criteria, including that it *"is not a private practice owned by a licensed marriage and family therapist, a licensed professional clinical counselor, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions."* (BPC §4980.43(e)(1)(C)) LPCC law simply states that the trainee's setting must not be a private practice, leaving out any further defining characteristics (BPC §4999.34(c)) However, these definitions apply to trainees only; there is no general definition.

LCSW law provides a definition of a private practice, stating “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 professional clinical counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.*” (BPC §4996.23(i)) However, it provides no definition of settings that are neither private practices or exempt settings.

It may be beneficial to examine developing a definition of a “private practice” that is consistent across license types. It may also be helpful to establish definition of other types of settings that are neither private practices or exempt, and to specify whether or not the Board’s laws and regulations that apply to private practices also apply in these settings.

## **History**

Both LCSW and LMFT licensing law has historically included exemptions for certain settings and professions since at least the late 1960’s. These exemptions have changed very little over the years.

When the Board began licensing LMFTs in the late 1960’s, there were two types of exempt settings: nonprofit and charitable institutions, and educational institutions. These institutions were required to obtain a waiver from the Board, demonstrating that they provided adequate supervision of non-licensed counseling personnel, and demonstrating a community need or a training need.

In 1976, governmental agencies were added to the list of exempt settings in LMFT statute, and these agencies were not required to obtain a waiver from the Board. In 1986, LMFT statute was amended to remove the need for any setting to obtain a waiver.

LCSW law originally provided a more expansive list of exempt settings. These settings were revised in 2007 order to standardize LCSW exempt settings with LMFT exempt settings. Exempt settings removed from LCSW law included the following:

- Family or children services agencies;
- Private psychiatric clinics; and
- Nonprofit organizations engaged in research and education.

It is believed that the original reasoning for exempting non-profit settings and governmental settings was because of the assumption of institutional control. It was believed that these settings would offer the needed public protection. In the case of exempted professions, the institutional control would come from the standards and ethics of the person’s respective profession. In the case of exempted governmental settings, it was assumed that there was an organizational structure already in place that would protect consumers and allow recourse from receiving substandard care.

**ATTACHMENTS:**

**Attachment A:** BBS Statutes and Regulations: Relevant Code Sections

**Attachment B:** IRS Code 501(c)(3): Tax Exemption for Nonprofit, Charitable Organizations

**Attachment C:** Penal Code §5068.5 (Exemptions from Licensure within State Department of Corrections)

**Attachment D:** Health and Safety Code §1277 (Exemptions from Licensure within State Health Facilities)

**Attachment E:** Welfare and Institutions Code §5751.2 (Exemptions from Licensure for Local Mental Health Programs)



**ATTACHMENT A**  
**BBS STATUTES AND REGULATIONS: RELEVANT CODE SECTIONS**

**LICENSED MARRIAGE AND FAMILY THERAPISTS (LMFTs)**

**Business and Professions Code (BPC) §4980.01**

(a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

(c) (1) This chapter shall not apply to an employee working in any of the following settings if his or her work is performed solely under the supervision of the employer:

(A) A governmental entity.

(B) A school, college, or university.

(C) An institution that is both nonprofit and charitable.

(2) This chapter shall not apply to a volunteer working in any of the settings described in paragraph (1) if his or her work is performed solely under the supervision of the entity, school, or institution.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c), all persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

**BPC §4980.43 (Relevant subsections are highlighted)**

(a) To qualify for licensure as specified in Section 4980.40, each applicant shall complete experience related to the practice of marriage and family therapy under a supervisor who meets the qualifications set forth in Section 4980.03. The experience shall comply with the following:

(1) A minimum of 3,000 hours of supervised experience completed during a period of at least 104 weeks.

- (2) A maximum of 40 hours in any seven consecutive days.
- (3) A minimum of 1,700 hours obtained after the qualifying master's or doctoral degree was awarded.
- (4) A maximum of 1,300 hours obtained prior to the award date of the qualifying master's or doctoral degree.
- (5) A maximum of 750 hours of counseling and direct supervisor contact prior to the award date of the qualifying master's or doctoral degree.
- (6) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction.
- (7) No hours of experience may be gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.
- (8) A minimum of 1,750 hours of direct counseling with individuals, groups, couples, or families, that includes not less than 500 total hours of experience in diagnosing and treating couples, families, and children.
- (9) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to marriage and family therapy that have been approved by the applicant's supervisor.
- (10) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

- (b) An individual who submits an application for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements that were in place on January 1, 2015.
- (c) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by an intern or trainee only as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Associates and trainees shall not be employed as independent contractors, and shall not gain experience for work performed as an independent contractor, reported on an IRS Form 1099, or both.

(1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

(d) Except for experience gained by attending workshops, seminars, training sessions, or conferences as described in paragraph (9) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(2) An individual supervised after being granted a qualifying degree shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours per week of face-to-face contact in a group.

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

(5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6) Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

(8) The six hours of supervision that may be credited during any single week pursuant to paragraphs (1) and (2) shall apply to supervision hours gained on or after January 1, 2009.

(e) (1) 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 professional clinical counselor, 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.

(f) (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, as defined in subparagraph (C) of paragraph (1) of subdivision (e), 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 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.

(g) Except as provided in subdivision (h), all persons shall register with the board as an intern to be credited for postdegree hours of supervised experience gained toward licensure.

(h) 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. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(i) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(j) 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. For purposes of paragraph (3) of

subdivision (a) of Section 2290.5, interns and trainees working under licensed supervision, consistent with subdivision (c), may provide services via telehealth within the scope authorized by this chapter and in accordance with any regulations governing the use of telehealth promulgated by the board. 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.R

(k) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered employees and not independent contractors. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(l) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

### **LICENSED EDUCATIONAL PSYCHOLOGISTS (LEPs)**

#### **BPC §4989.16. LICENSING EXCEPTIONS**

(a) A person appropriately credentialed by the Commission on Teacher Credentialing may perform the functions authorized by that credential in a public school without a license issued under this chapter by the board.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Licensed Marriage and Family Therapist Practice 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)).

### **LICENSED CLINICAL SOCIAL WORKERS (LCSWs)**

#### **BPC §4996.13.**

Nothing in this article shall prevent qualified members of other professional groups from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, they shall not hold themselves out to the public by any title or description of services incorporating the words psychosocial, or clinical social worker, or that they shall not state or imply that they are licensed

to practice clinical social work. These qualified members of other professional groups include, but are not limited to, the following:

- (a) A physician and surgeon certified pursuant to Chapter 5 (commencing with Section 2000).
- (b) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).
- (c) Members of the State Bar of California.
- (d) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980).
- (e) Licensed professional clinical counselors pursuant to Chapter 16 (commencing with Section 4999.10).
- (f) A priest, rabbi, or minister of the gospel of any religious denomination.

**BPC §4996.14.**

(a) This chapter shall not apply to an employee who is working in any of the following settings if his or her work is performed solely under the supervision of the employer:

- (1) A governmental entity.
- (2) A school, college, or university.
- (3) An institution that is both nonprofit and charitable.

(b) This chapter shall not apply to a volunteer who is working in any of the settings described in subdivision (a) if his or her work is performed solely under the supervision of the entity, school, college, university, or institution.

(c) This chapter shall not apply to a person using hypnotic techniques by referral from any of the following persons if his or her practice is performed solely under the supervision of the employer:

- (1) A person licensed to practice medicine.
- (2) A person licensed to practice dentistry.
- (3) A person licensed to practice psychology.

(d) This chapter shall not apply to a person using hypnotic techniques that offer vocational self-improvement, and the person is not performing therapy for emotional or mental disorders.

**BPC §4996.15.**

Nothing in this article shall restrict or prevent activities of a psychosocial nature on the part of persons employed by accredited academic institutions, public schools, government agencies, or nonprofit institutions engaged in the training of graduate students or social work interns pursuing the course of study leading to a master's degree in social work in an accredited college or university, or working in a recognized training program, provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by such titles as social work interns, social work trainees, or other titles clearly indicating the training status appropriate to their level of training. The term "social work intern," however, shall be reserved for persons enrolled in a master's or doctoral training program in social work in an accredited school or department of social work.

**BPC §4996.23. (Relevant subsections are highlighted)**

(a) To qualify for licensure as specified in Section 4996.2, each applicant shall complete 3,200 hours of post-master's degree supervised experience related to the practice of clinical social work. The experience shall comply with the following:

(1) 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 acceptable to the board as defined by a regulation adopted by the board.

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

(3) A maximum of 1,200 hours in client centered advocacy, consultation, evaluation, research, direct supervisor contact, and workshops, seminars, training sessions, or conferences directly related to clinical social work that have been approved by the applicant's supervisor.

(4) Of the 2,000 clinical hours required in paragraph (2), 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.

(5) 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.

(6) Experience shall not be credited for more than 40 hours in any week.

(b) An individual who submits an application for examination eligibility between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements that were in place on January 1, 2015.

(c) "Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(d) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty

of perjury the “Responsibility Statement for Supervisors of an Associate Clinical Social Worker” form.

(2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. For purposes of this subdivision, “one hour of direct supervisor contact” means one hour per week of face-to-face contact on an individual basis or two hours of face-to-face contact in a group conducted within the same week as the hours claimed.

(3) 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 six hours of supervision, whether individual or group, shall be credited during any single week.

(4) Supervision shall include at least one hour of direct supervisor contact during each week for which experience is gained in each work setting. Supervision is not required for experience gained attending workshops, seminars, training sessions, or conferences as described in paragraph (3) of subdivision (a).

(5) The six hours of supervision that may be credited during any single week pursuant to paragraph (3) shall apply only to supervision hours gained on or after January 1, 2010.

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

(7) 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 a licensed clinical social worker.

(8) Notwithstanding paragraph (2), an associate clinical social worker working for a governmental entity, school, college, or university, or an institution that is both a nonprofit and charitable institution, may obtain the required weekly direct supervisor contact via live two-way videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is preserved.

(e) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.

(f) 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.

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



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

(i) 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 professional clinical counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(j) Associates shall not be employed as independent contractors, and shall not gain experience for work performed as an independent contractor, reported on an IRS Form 1099, or both.

(k) 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.

(l) 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.

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

(n) 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.

(o) 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.

(p) 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.

#### **LICENSED PROFESSIONAL CLINICAL COUNSELORS (LPCCs)**

##### **BPC §4999.22.**

(a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words "licensed professional clinical counselor" and shall not state that they are licensed to practice professional clinical counseling, unless they are otherwise licensed to provide professional clinical counseling services.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Clinical Social Worker Practice Act, the Nursing Practice Act, the Psychology Licensing Law, or the Licensed Marriage and Family Therapist Act.

(c) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in this state, or who is licensed to practice medicine, who provides counseling services as part of his or her professional practice.

(d) This chapter shall not apply to an employee of a governmental entity or a school, college, or university, or of an institution both nonprofit and charitable, if his or her practice is performed solely under the supervision of the entity, school, college, university, or institution by which he or she is employed, and if he or she performs those functions as part of the position for which he or she is employed.

(e) All persons registered as interns or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

**BPC §4999.24.**

Nothing in this chapter shall restrict or prevent activities of a psychotherapeutic or counseling nature on the part of persons employed by accredited or state-approved academic institutions, public schools, government agencies, or nonprofit institutions engaged in the training of graduate students or clinical counselor trainees pursuing a course of study leading to a degree that qualifies for professional clinical counselor licensure at an accredited or state-approved college or university, or working in a recognized training program, provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by a title such as “clinical counselor trainee” or other title clearly indicating the training status appropriate to the level of training.

**BPC §4999.34. (Relevant subsections are highlighted)**

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.

**BPC §4999.47. (Relevant subsections are highlighted)**

(a) Clinical counselor trainees, interns, and applicants shall perform services only as an employee or as a volunteer.

The requirements of this chapter regarding gaining hours of clinical mental health experience and supervision are applicable equally to employees and volunteers. Associates and trainees shall not be employed as independent contractors, and shall not gain experience for work performed as an independent contractor, reported on an IRS Form 1099, or both.

(1) If employed, a clinical counselor intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure as a professional clinical counselor.

(2) If volunteering, a clinical counselor intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure as a professional clinical counselor.

(b) Clinical counselor trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

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

(d) Clinical counselor trainees, interns, and applicants who provide voluntary services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those clinical counselor trainees, interns, and applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor.

(e) The board may audit an intern or applicant who receives reimbursement for expenses and the intern or applicant shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

**(f) Clinical counselor trainees, interns, and applicants shall only perform services at the place where their employer regularly conducts business and services, which may include other locations, as long as the services are performed under the direction and control of the employer and supervisor in compliance with the laws and regulations pertaining to supervision. Clinical counselor trainees, interns, and applicants shall have no proprietary interest in the employer's business.**

(g) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and clinical counselor trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

**CALIFORNIA CODE OF REGULATION (CCR) TITLE 16 §1820 EXPERIENCE (Relevant subsections are highlighted)**

(a) In order for experience to qualify under Section 4999.50(a)(2) of the Code, it must have been gained in accordance with Sections 4999.44 through 4999.47 of the Code and the regulations contained in this article.

(b) The term "supervision", as used in this article, 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/patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the intern; monitoring and evaluating the ability of the intern to provide services at the site(s) where he or she will be practicing and to the particular clientele being served; and ensuring compliance with laws and regulations governing the practice of professional clinical counseling. Supervision shall include that amount of direct observation, or review of audio or video tapes of counseling, as deemed appropriate by the supervisor.

(c) The term "clinical setting," as used in this article means any setting that meets all the following requirements:

(1) Lawfully and regularly provides mental health counseling or psychotherapy; and,

(2) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in Chapter 16 (Commencing with Section 4999.10) of Division 2 of the Business and Professions Code and is within the scope of practice of the profession as specified therein.

(d) The term "community mental health setting," as used in Section 4999.46 of the Code, means a clinical setting that meets all of the following requirements:

(1) Lawfully and regularly provides mental health counseling or psychotherapy;

(2) Clients routinely receive psychopharmacological interventions in conjunction with psychotherapy, counseling, or other psycho-social interventions;

(3) Clients receive coordinated care that includes the collaboration of mental health providers; and,

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

(e) Supervision shall be credited only upon the following conditions:

(1) During each week in which experience is claimed and for each work setting in which experience is gained, an applicant or intern shall have at least one (1) hour of one-on-one, individual, face-to-face supervisor contact or two (2) hours of face-to-face supervisor contact in a group of not more than

eight (8) persons receiving supervision. No more than five (5) hours of supervision, whether individual or group, shall be credited during any single week.

(2) The applicant or intern shall have received at least one (1) hour of one-on-one, individual, face-to-face supervisor contact per week for a minimum of fifty-two (52) weeks.

(3) In a setting which is not a private practice, the authorized supervisor may be employed by the applicant's employer on either a paid or a voluntary basis. If such employment is on a voluntary basis, a written agreement must be executed between the supervisor and the organization, prior to commencement of supervision, in which the supervisor agrees to ensure that the extent, kind, and quality of counseling performed by the intern is consistent with the intern's training, education, and experience, and is appropriate in extent, kind, and quality. The agreement shall contain an acknowledgment by the employer that the employer:

(A) Is aware of the licensing requirements that must be met by the intern and agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements; and

(B) Agrees to provide the supervisor access to clinical records of the clients counseled by the intern.

(4) The applicant or intern maintains a record of all hours of experience gained toward licensure on the "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" (form No. 1800 37A-645 Revised 02/15), hereby incorporated by reference. The record of hours must be signed by the supervisor on a weekly basis. An intern shall retain all "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" until such time as the applicant is licensed by the board. The board shall have the right to require an applicant to submit all or such portions of the "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns" as it deems necessary to verify hours of experience.

(f) When an intern employed in private practice is supervised by someone other than the employer, the supervisor must be employed by and practice at the same site(s) as the intern's employer.

NOTE: Authority cited: Section 4990.20, 4999.48 and 4999.50, Business and Professions Code. Reference: Sections 4999.44, 4999.45, 4999.46, 4999.47 Business and Professions Code.

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## ATTACHMENT B

### Exemption Requirements - 501(c)(3) Organizations

To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be [organized](#) and [operated](#) exclusively for [exempt purposes](#) set forth in section 501(c)(3), and none of its earnings may [inure](#) to any private shareholder or individual. In addition, it may not be an [action organization](#), *i.e.*, it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.

Organizations described in section 501(c)(3) are commonly referred to as *charitable organizations*. Organizations described in section 501(c)(3), other than testing for public safety organizations, are eligible to receive tax-deductible [contributions](#) in accordance with Code section 170.

The organization must not be organized or operated for the benefit of [private interests](#), and no part of a section 501(c)(3) organization's net earnings may inure to the benefit of any private shareholder or individual. If the organization engages in an [excess benefit transaction](#) with a person having substantial influence over the organization, an [excise tax](#) may be imposed on the person and any organization managers agreeing to the transaction.

Section 501(c)(3) organizations are restricted in how much political and legislative (*lobbying*) activities they may conduct. For a detailed discussion, see [Political and Lobbying Activities](#). For more information about lobbying activities by charities, see the article [Lobbying Issues](#); for more information about political activities of charities, see the FY-2002 CPE topic [Election Year Issues](#).

#### Additional Information

- [Application Process Step by Step](#): Questions and answers that will help an organization determine if it is eligible to apply for recognition of exemption from federal income taxation under IRC section 501(a) and, if so, how to proceed.
- [Private foundations - requirements for exemption](#)
- [Tax-Exempt Status](#)- online training available at the IRS microsite [StayExempt.irs.gov](#).

Page Last Reviewed or Updated: 28-Jun-2016



## Organizational Test - Internal Revenue Code Section 501(c)(3)

To be organized exclusively for a charitable purpose, the organization must be a corporation (or unincorporated association), community chest, fund, or foundation. A charitable trust is a fund or foundation and will qualify. However, an individual will not qualify. The [organizing documents](#) must limit the organization's purposes to exempt purposes in section 501(c)(3) and must not expressly empower it to engage, other than as an insubstantial part of its activities, in activities that are not in furtherance of one or more of those purposes. This requirement may be met if the purposes stated in the organizing documents are limited by reference to section 501(c)(3).

In addition, an organization's assets must be permanently dedicated to an exempt purpose. This means that if an organization dissolves, its assets must be distributed for an exempt purpose, to the federal government, or to a state or local government for a public purpose. To establish that an organization's assets will be permanently dedicated to an exempt purpose, its organizing documents should contain a provision ensuring their distribution for an exempt purpose in the event of dissolution. If a specific organization is designated to receive the organization's assets upon dissolution, the organizing document must state that the named organization must be a section 501(c)(3) organization when the assets are distributed. Although reliance may in some cases be placed upon state law to establish permanent dedication of assets for exempt purposes, an organization's application can be processed by the IRS more rapidly if its organizing documents include a provision ensuring permanent dedication of assets for exempt purposes. For examples of provisions that meet these requirements, see [Charity - Required Provisions for Organizing Documents](#).

*Page Last Reviewed or Updated: 01-Nov-2016*





## Operational test - Internal Revenue Code section 501(c)(3)

An organization will be regarded as *operated exclusively* for one or more exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities does not further an exempt purpose.

*Page Last Reviewed or Updated: 21-Dec-2016*



## Exempt Purposes - Internal Revenue Code Section 501(c)(3)

The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

*Page Last Reviewed or Updated: 01-Nov-2016*

## Penal Code Section 5068.5



# California

## LEGISLATIVE INFORMATION

## Exemptions from Licensure - State Department of Corrections

Code: PEN

Section: 5068.5.

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**PENAL CODE - PEN**

**PART 3. OF IMPRISONMENT AND THE DEATH PENALTY [2000 - 10007]** ( *Part 3 repealed and added by Stats. 1941, Ch. 106.* )

**TITLE 7. ADMINISTRATION OF THE STATE CORRECTIONAL SYSTEM [5000 - 7445]** ( *Title 7 added by Stats. 1944, 3rd Ex. Sess., Ch. 2.* )

**CHAPTER 2. The Secretary of the Department of Corrections and Rehabilitation [5050 - 5072]** ( *Heading of Chapter 2 amended by Stats. 2005, Ch. 10, Sec. 35.* )

**5068.5.** (a) Notwithstanding any other law, except as provided in subdivisions (b) and (c), any person employed or under contract to provide diagnostic, treatment, or other mental health services in the state or to supervise or provide consultation on these services in the state correctional system shall be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state.

(b) Notwithstanding Section 5068 or Section 704 of the Welfare and Institutions Code, the following persons are exempt from the requirements of subdivision (a), so long as they continue in employment in the same class and in the same department:

(1) Persons employed on January 1, 1985, as psychologists to provide diagnostic or treatment services including those persons on authorized leave but not including intermittent personnel.

(2) Persons employed on January 1, 1989, to supervise or provide consultation on the diagnostic or treatment services including persons on authorized leave but not including intermittent personnel.

(c) (1) The requirements of subdivision (a) may be waived by the secretary solely for persons in the professions of psychology or clinical social work who are gaining qualifying experience for licensure in those professions in this state. Providers working in a licensed health care facility operated by the department must receive a waiver in accordance with Section 1277 of the Health and Safety Code.

(2) A waiver granted pursuant to this subdivision shall not exceed three years from the date the employment commences in this state in the case of psychologists, or four years from commencement of the employment in this state in the case of clinical social workers, at which time licensure shall have been obtained or the employment shall be terminated, except that an extension of a waiver of licensure for clinical social workers may be granted for one additional year, based on extenuating circumstances determined by the department pursuant to subdivision (d). For persons employed as psychologists or clinical social workers less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers or five years in the case of psychologists. However, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of that training.

(3) A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensure examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the next possible examination, subject to the one-year limit for clinical social workers, and subject to a two-year limit for psychologists.

(d) The department shall grant a request for an extension of a waiver of licensure for a clinical social worker

pursuant to subdivision (c) based on extenuating circumstances if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event that may impair the person's ability to qualify for and pass the licensure examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster; serious and prolonged illness of the person; serious and prolonged illness or death of a child, spouse, or parent; or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship that the department, in its discretion, determines to warrant the extension.

*(Amended by Stats. 2010, Ch. 729, Sec. 6. Effective October 19, 2010.)*

## Health &amp; Safety Code Section 1277 -

**California**  
LEGISLATIVE INFORMATION**Exemptions from Licensure - State Health Facilities**

Code: HSC

Section: 1277.

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**HEALTH AND SAFETY CODE - HSC****DIVISION 2. LICENSING PROVISIONS [1200 - 1796.63]** (*Division 2 enacted by Stats. 1939, Ch. 60.*)**CHAPTER 2. Health Facilities [1250 - 1339.59]** (*Chapter 2 repealed and added by Stats. 1973, Ch. 1202.*)**ARTICLE 3. Regulations [1275 - 1289.5]** (*Article 3 added by Stats. 1973, Ch. 1202.*)

**1277.** (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.

(b) (1) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, except Sections 2072 and 2073 of the Business and Professions Code, the licensure requirements for professional personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, marriage and family therapists, pharmacists, registered nurses, clinical social workers, and professional clinical counselors in the state and other governmental health facilities licensed by the state department shall not be less than for those professional personnel in health facilities under private ownership.

(2) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the state department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of paragraph (1).

(3) The requirements of paragraph (1) may be waived by the state department solely for persons in the professions of psychology, marriage and family therapy, clinical social work, or professional clinical counseling who are gaining qualifying experience for licensure in such profession in this state. A waiver granted pursuant to this paragraph shall not exceed three years from the date the employment commences in this state in the case of psychologists, or four years from commencement of the employment in this state in the case of marriage and family therapists, clinical social workers, and professional clinical counselors, at which time licensure shall have been obtained or the employment shall be terminated, except that an extension of a waiver of licensure for marriage and family therapists, clinical social workers, and professional clinical counselors may be granted for one additional year, based on extenuating circumstances determined by the state department pursuant to subdivision (e). For persons employed as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years in the case of clinical social workers, marriage and family therapists, or professional clinical counselors, or five years in the case of psychologists.

(4) The durational limitation upon waivers pursuant to paragraph (3) shall not apply to any of the following:

(A) Active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training.

(B) Active candidates for a doctoral degree in marriage and family therapy who are enrolled at a school, college, or university, specified in subdivision (b) of Section 4980.36 of, or subdivision (b) of Section 4980.37 of, the Business and Professions Code, but the limitations shall apply following completion of the training.

(C) Active candidates for a doctoral degree in professional clinical counseling who are enrolled at a school, college, or university, specified in subdivision (b) of Section 4999.32 of, or subdivision (b) of Section 4999.33 of, the Business and Professions Code, but the limitations shall apply following the completion of the training.

(5) A waiver pursuant to paragraph (3) shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission

to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the next possible examination, subject to the one-year limit for marriage and family therapists, clinical social workers, and professional clinical counselors, and subject to a two-year limit for psychologists.

(c) A special permit shall be issued by the state department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

(d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership, including standards specifying the level of training and supervision of all unlicensed practitioners. Except for psychologists, the department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (e).

(e) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivision (b) or (d), if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event which may impair the person's ability to qualify for and pass the license examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster, serious and prolonged illness of the person, serious and prolonged illness or death of a child, spouse, or parent, or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship which the department, in its discretion, determines to warrant the extension.

*(Amended by Stats. 2011, Ch. 381, Sec. 27. Effective January 1, 2012.)*

## Welfare &amp; Institutions Code Section 5751.2 -

## Exemptions from Licensure - Local Mental Health Programs -


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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES [5000 - 5952]** (*Division 5 repealed and added by Stats. 1967, Ch. 1667.*)

**PART 2. THE BRONZAN-MCCORQUODALE ACT [5600 - 5772]** (*Heading of Part 2 amended by Stats. 1992, Ch. 1374, Sec. 14.*)

**CHAPTER 4. Operation and Administration [5750 - 5772]** (*Chapter 4 added by Stats. 1968, Ch. 989.*)

**5751.2.** (a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part shall be subject to all applicable requirements of law regarding professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which a license is required, unless the person possesses a valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a).

(c) While registered with the licensing board of jurisdiction for the purpose of acquiring the experience required for licensure, persons employed or under contract to provide mental health services pursuant to this part as clinical social workers, marriage and family therapists, or professional clinical counselors shall be exempt from subdivision (a). Registration shall be subject to regulations adopted by the appropriate licensing board.

(d) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons employed or under contract to provide mental health services pursuant to this part as psychologists who are gaining the experience required for licensure. A waiver granted under this subdivision may not exceed five years from the date of employment by, or contract with, a local mental health program for persons in the profession of psychology.

(e) The requirements of subdivision (a) shall be waived by the State Department of Health Care Services for persons who have been recruited for employment from outside this state as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors and whose experience is sufficient to gain admission to a licensing examination. A waiver granted under this subdivision may not exceed three years from the date of employment by, or contract with, a local mental health program for persons in these four professions who are recruited from outside this state.

(Amended by Stats. 2012, Ch. 34, Sec. 165. Effective June 27, 2012.)

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### **Other State Agencies – Private Practice Definitions**

Only one state out of the eight surveyed has laws that define “private practice”. It seems that most states instead rely on a common understanding of the term. In order to get a sense of what the professional community means by “private practice,” additional research was performed and included in **Attachment B**.

### **ATTACHMENTS:**

**Attachment A: Summary of Other State Licensing Agency Exemptions**

**Attachment B: Other Private Practice Definitions**

## ATTACHMENT A: SUMMARY OF OTHER STATE LICENSING AGENCY EXEMPTIONS

→ EXEMPTION TYPE →	Accredited or Approved Colleges and Universities	Public Schools (K-12)	Private Schools	Government Entities	Nonprofits	Other Exempt Settings/Notes
↓ STATE or AGENCY ↓						
<b>CA Board of Behavioral Sciences</b>	YES	YES	YES	YES <sup>1</sup>	YES but only if also “charitable”	
<b>CA Board of Psychology</b>	YES <sup>2</sup>	YES <sup>2</sup>	NO	YES <sup>1,2</sup>	YES <sup>3</sup>	
<b>Arizona</b>	NO, except for students pursuing a counseling-related degree who are under supervision	NO	NO	YES, but only for certain specified agencies, and under certain conditions	NO	<ul style="list-style-type: none"> <li>• An agency licensed by the Dept. of Health Services, but only for certain types of employees</li> <li>• An agency licensed by the Dept. of Economic Security</li> <li>• A person contracting with the Supreme court or a person employed by or contracting with an agency under contract with the Supreme court, if under supervision and under certain conditions</li> <li>• A member run self-help or self-growth group if no member of the group receives compensation</li> </ul>
<b>Virginia</b>	NO, except for students pursuing a counseling-related degree who are under supervision	NO	NO	YES, including agencies funded, in whole or part, by the government	YES	<ul style="list-style-type: none"> <li>• An agency sponsored or funded, in whole or part, by a community-based citizen group or organization</li> </ul>

<sup>1</sup> Limitation on BBS/BOP government agency exemptions: California correctional facilities, certain health facilities, and local mental health programs are ONLY exempt if the employee is gaining experience required for licensure; allowed only for a limited time period (3 or 5 years, depending on the setting).

<sup>2</sup> The exemption is limited to 5 years. Only permitted if the individual is 1) primarily gaining supervised experience toward licensure and 2) has a licensed psychologist supervisor who is also an employee of the setting. Students pursuing a psychology degree who are under supervision are also exempted.

<sup>3</sup> Must be a nonprofit community agency that receives a minimum of 25% funding from governmental sources other than Medi-Cal/Medicare; employee must register with the BOP as a “registered psychologist” and meet certain requirements. Functions are limited.

→ EXEMPTION TYPE →	Accredited or Approved Colleges and Universities	Public Schools (K-12)	Private Schools	Government Entities	Nonprofits	Other Exempt Settings/Notes
↓ STATE or AGENCY ↓						
<b>Florida</b>	YES	NO	NO	YES	YES, but only if services are provided to youth or families, and at no charge	<p>Any of the following if licensed by the Dept. of Public Health:</p> <ul style="list-style-type: none"> <li>• Developmental disability facility or program</li> <li>• Mental health facility</li> <li>• Alcohol or drug abuse facility</li> <li>• Child care or placement agencies</li> <li>• Certified domestic violence centers</li> </ul> <p>NOTES:</p> <ul style="list-style-type: none"> <li>• Except as stipulated by the board, the exemptions do not apply to any person whose license has been suspended or revoked by the board or another jurisdiction.</li> <li>• Persons in exempt settings shall meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including activities for which the person is not qualified.</li> </ul>
<b>Oregon</b>	NO, except for students pursuing a counseling-related degree who are under supervision and are unpaid	NO	NO	YES	NO	<ul style="list-style-type: none"> <li>• A community mental health program licensed by the State</li> <li>• A drug/alcohol treatment program licensed by the State</li> </ul> <p>NOTES:</p> <ul style="list-style-type: none"> <li>• If the employee has a degree that qualifies for licensure, the exemption is limited to 2 years.</li> <li>• The exemptions do not apply to a person whose license to practice is revoked or suspended because the person engaged in sexual activity with a client.</li> </ul>
<b>Texas</b>	YES	YES	YES	YES	YES	

## ATTACHMENT B: OTHER PRIVATE PRACTICE DEFINITIONS

State/Agency	Private Practice Definition
<b>CA Board of Behavioral Sciences</b>	LCSW law only: 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 professional clinical counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.
<b>CA Board of Psychology</b>	None
<b>Arizona, Florida, Oregon, Texas, Vermont, Virginia</b>	None
<b>New York</b>	None in law, but licensing website provides the following definition: <ul style="list-style-type: none"> <li>• Occurs when any licensee commences practicing for profit absent any planned corporate structure.</li> <li>• The practitioner is responsible independently for his/her professional actions which result in charges of professional misconduct and civilly liable for his/her actions and those of any employee</li> </ul>
<b>Ohio</b>	"Private practice" and "private practitioner" mean an individual who independently, in partnership, or in corporation practices counseling, social work, or marriage and family therapy as defined in section <u>4757.01</u> of the Revised Code and sets up his/her own condition of exchange with those clients, and identifies himself/herself in any manner as a counselor, social worker, or marriage and family therapist in offering such services.
<b>CAMFT, AAMFT, ACA, NBCC</b>	None
<b>NASW</b>	Private practitioners are social workers who, wholly or in part, practice social work outside a governmental or duly incorporated voluntary agency, who have responsibility for their own practice and set up conditions of exchange with their clients, and identify themselves as social work practitioners in offering services.
<b>Association of Social Work Boards Model Law</b>	Private Practice means the provision of Clinical Social Work services by a licensed clinical social worker who assumes responsibility and accountability for the nature and quality of the services provided to the Client in exchange for direct payment or third-party reimbursement.
<b>Mosby's Medical Dictionary</b>	The work of a professional health care provider who is independent of economic or policy control by professional peers except for licensing and other legal restrictions; To engage in one's profession as an independent provider rather than as an employee.
<b>National Health Service Corps</b>	Solo or Group Private Practice – A clinical practice that is made up of either one or many providers in which the providers have ownership or an invested interest in the practice. Private practices can be arranged to provide primary medical, dental and/or mental health services and can be organized as entities on the following basis: fee-for-service; capitation; a combination of the two; family practice group; primary care group; or multi-specialty group.

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- Can a Trainee or Intern (non-licensee) own, operate, or serve on the board of a psychotherapy clinic or practice?
- Can a Trainee or Intern serve in a position where high level decisions are being made (such as the CEO of a nonprofit or other business, a board member, or a business owner) when the entity employs registrants gaining experience toward licensure? What if the Trainee or Intern who holds such a position is gaining supervised experience toward licensure at that same agency?
- Should the law address supervisors who are employed by, or who are under administrative supervision of, the registrant whom he or she is supervising (for example, where the registrant is also the CEO of the nonprofit employing the supervisor)?
- Should a temporary agency be permitted to employ BBS registrants?
- Current law permits a maximum of three (3) supervisees per supervisor in a private practice or a professional corporation. Should there be a maximum number of supervisees per supervisor in other settings?

### **Clarification or Definition Needed**

- Current law pertaining to exempt settings is inconsistent across license types.
- Need to develop a clear definition of “private practice” that is consistent across license types.
- Need to establish definitions of other types of work settings that are neither private practices nor exempt settings, and then address the following questions:
  - Should unlicensed/unregistered persons, even if working under supervision, be able to provide psychotherapy in these “other” settings?
  - Should the Board’s laws that apply to private practices also apply to these “other” settings?





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**To:** Exempt Committee Members **Date:** January 10, 2017  
**From:** Kim Madsen **Telephone:** (916) 574-7841  
Executive Officer  
**Subject: Future Meeting Dates**

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For your reference, the Board's 2017 meeting dates are listed below to assist committee members in determining future meeting dates.

DATE	BOARD OR COMMITTEE	LOCATION
February 3, 2017	Policy and Advocacy Committee	Sacramento, CA
March 1-3, 2017	Board Meeting	Sacramento, CA
April 21, 2017	Policy and Advocacy Committee	Sacramento, CA
May 10-12, 2017	Board Meeting	TBA
June 23, 2017	Policy and Advocacy Committee	Sacramento, CA
August 23-25, 2017	Board Meeting	Sacramento, CA
September 15, 2017	Policy and Advocacy Committee	Sacramento, CA
November 1-3, 2017	Board Meeting	TBA