

BOARD OF BEHAVIORAL SCIENCES

PROPOSED LANGUAGE

Amend Section 1845 of Division 18 of Title 16 as follows:

§ 1845. UNPROFESSIONAL CONDUCT

As used in Section 4982 of the code, unprofessional conduct includes, but is not limited to:

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

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

(c) ~~Failure~~ Failing to comply with the child abuse reporting requirements of Penal Code Section 11166.

(d) Failing to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institution Code Section 15630 et. seq.

Note: Authority cited: Section 4980.60, Business and Professions Code. Reference: Sections ~~726~~, 4980.03, 4980.60 and 4982, Business and Professions Code; and Section 11166, Penal Code, and Section 15630, Welfare and Institutions Code.

Amend Section 1858 of Division 18 of Title 16 as follows:

§ 1858. UNPROFESSIONAL CONDUCT

The Board may suspend or revoke the license of a licensee who:

(a) Misrepresents the type or status of license held by the licensee.

(b) Impersonates a licensee or who allows another person to use his or her license.

(c) Aids or abets an unlicensed person to engage in conduct requiring a license.

(d) Intentionally or recklessly causes physical or emotional harm to a client.

(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.

(f) When employed by another person or agency, encourages, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(g) Misrepresents or permits the misrepresentation of his or her professional qualifications, affiliations, or purposes.

(h) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of an educational psychologist.

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

(j) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.

(k) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.

(l) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.

(m) Advertises in a manner which is false or misleading ~~or in violation of Section 17500 of the Code.~~

(n) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. An Educational Psychologist shall limit access to such test or device to persons with professional interests who can be expected to safeguard their use.

(o) ~~Failure~~ Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.

(p) Fails to comply with the elder and adult dependent abuse reporting requirements of Welfare and Institution Code Section 15630 et. seq.

Note: Authority cited: Section 4987, Business and Professions Code. Reference: Sections 730, 4987, 4986.70 and ~~7867~~ 4986.71, Business and Professions Code; and Section 11166, Penal Code, and Section 15630, Welfare and Institutions Code.

Amend Section 1881 of Division 18 of Title 16 as follows:

§ 1881. UNPROFESSIONAL CONDUCT

The board may suspend or revoke the license of a licensee or may refuse to issue a license to a person who:

- (a) Misrepresents the type or status of license held by such person or otherwise misrepresents or permits the misrepresentation of his or her professional qualifications or affiliations.
- (b) Impersonates a licensee or who allows another person to use his or her license.
- (c) Aids or abets an unlicensed person to engage in conduct requiring a license.
- (d) Intentionally or recklessly causes physical or emotional harm to a client.
- (e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.
- (f) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of a Licensed Clinical Social Worker.
- (g) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.
- (h) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.
- (i) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.
- (j) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.
- (k) Advertises in a manner which is false or misleading.
- (l) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate

such test or device. The licensee shall limit access to such test or device to persons with professional interest who are expected to safeguard their use.

(m) Commits an act or omission which falls sufficiently below that standard of conduct of the profession as to constitute an act of gross negligence.

(n) Pays, accepts or solicits any consideration, compensation or remuneration for the referral of professional clients. All consideration, compensation or remuneration must be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for such collaboration except when disclosure of such fee is made in compliance with subparagraph (j) above.

(o) ~~Failure~~ Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.

(p) Fails to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institution Code Section 15630 et. seq.

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Sections ~~726~~, 4990.14, 4992.3, 4992.33 and 4996.11, Business and Professions Code; Section 11166, Penal Code, and Section 15630, Welfare and Institutions Code.