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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

BLPCT 2-2020

CHAPTER 833
MENTAL HEALTH REGULATORY AGENCY
OREGON BOARD OF LICENSED PROFESSIONAL COUNSELORS AND THERAPISTS

FILED

03/18/2020 9:32 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Temporary suspension of in-person supervision requirement for registered interns and licensees under Board order.

EFFECTIVE DATE: 03/18/2020 THROUGH 09/13/2020

AGENCY APPROVED DATE: 03/18/2020

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NEED FOR THE RULE(S):

In response to the COVID-19 global pandemic and resulting social distancing initiatives, the Board determined that there was an immediate need to temporarily allow supervision to occur through electronic means.

JUSTIFICATION OF TEMPORARY FILING:

Failure to immediately amend this rule will result in interns' and licensees' inability to obtain the requisite in-person supervision that is currently mandated. In-person gatherings have been limited in response to recent measures designed to slow the spread of the coronavirus. Many licensees and interns must now function electronically because of health concerns or because they have been mandated to do so by their employer. Clinical hours that do not meet the supervision requirements do not qualify towards the experience requirements that interns need to become licensed. If these rules are not amended, interns and licensees under supervision will face a choice of either violating Board rule or order, or ceasing their practice. This hinders interns' future ability to obtain a license to practice professional counseling or marriage and family counseling in Oregon. It will result in the loss of livelihood for these practitioners and a reduction in essential mental health services available to Oregonians. This temporary rule amendment will facilitate safe practice and help to reduce the spread of the disease.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OAR Chapter 833 and ORS Chapter 675 are available on the OBLPCT website at <https://www.oregon.gov/OBLPCT/Pages/LawsRules.aspx>. Coronavirus/COVID-19 information and resources from the Governor's Office, including relevant Executive Orders, can be found at <https://www.oregon.gov/gov/Pages/coronavirus2020.aspx>.

RULES:

833-050-0081, 833-110-0011

AMEND: 833-050-0081

SUSPEND: Temporary 833-050-0081 from BLPCT 1-2020

RULE TITLE: Supervision

RULE SUMMARY: This amendment temporarily suspends the requirement that registered interns receive at least 25% of their monthly supervision in-person, allowing for 100% of supervision hours to be conducted through confidential electronic communications.

RULE TEXT:

- (1) Supervision of direct client contact must take place within the same calendar month as the completed direct client contact hours.
- (2) Supervision meetings must take place at least twice per month, and in different weeks.
- (3) Supervision meetings must be no less than one hour.
- (4) Supervision each month must total at least:
 - (a) Two (2) hours for months in which 45 or fewer hours of direct client contact are completed; or
 - (b) Three (3) hours for months in which 46 or more hours of direct client contact are completed.
- (5) In addition to all other reporting requirements, during the first three months of supervision, up to 100% of the reported monthly supervision hours may be conducted through confidential electronic communications.
- (6) For the remaining required supervision hours, up to 100% of the remaining reported supervision hours may be conducted through confidential electronic communications.
- (7) At least 50% of the required number of monthly supervision hours must be individual supervision 1-to-1.
- (8) Group supervision must meet the following requirements at each meeting.
 - (a) Include no more than six (6) supervisees;
 - (b) Have leadership that does not shift from one supervisor to another; and
 - (c) Not be a staff or team meeting, intensive training seminar, discussion group, consultation session, or quality assurance or review group.
- (9) If in any month an intern does not receive the minimum supervision hours required, no client contact hours would be credited for that month.
- (10) An approved plan for a single practice, such as private practice or employment by one agency offering services at one or more sites, may have no more than two supervisors at any given time.

STATUTORY/OTHER AUTHORITY: ORS 675.785 - 675.835, 676.160 - 676.180

STATUTES/OTHER IMPLEMENTED: ORS 675.785 - 675.835

AMEND: 833-110-0011

SUSPEND: Temporary 833-110-0011 from BLPCT 1-2020

RULE TITLE: Response to Complaints

RULE SUMMARY: This amendment temporarily allows licensees and interns who are under a Board order or agreement that mandates supervision to meet with their supervisor through confidential electronic communications.

RULE TEXT:

- (1) The Board will review and accept for consideration a complaint filed by any person, group of persons, or the Board on its own action that is specific as to the conduct upon which the complaint is based. A complaint will be rejected if it does not allege a violation for which the Board has the grounds to impose sanctions pursuant to ORS 675.745 or 675.825.
- (2) A complaint that a licensee, registered intern, temporary practitioner, or applicant is incompetent or has committed an act or acts in violation of the law or rules adopted by the Board including the Code of Ethics will be considered a complaint of professional misconduct. A complaint that an unlicensed person has practiced or used a title in violation of ORS 675.825 will be considered a complaint of unlicensed practice.
- (3) The Board will make forms available to the public and encourage complainants to use the Board's investigation request form. If a complaint is first made in verbal form, or does not contain information substantially equivalent to the Board's form, then the Board's representative may require the complainant to use the Board's form to initiate an investigation. If the complainant is a client or former client of the respondent, then the complainant should sign a release form allowing the Board and its legal counsel access to records and other materials that are the ethical and legal responsibility of the respondent. Refusal by a complainant to comply with this requirement may result in dismissal of the complaint.
- (4) Upon receipt of a valid complaint, a complaint file will be opened. A preliminary investigation or review will be conducted to determine if additional investigation and the assignment of additional investigators is necessary, or whether to file a report with the Board recommending the complaint be dismissed without further action. If additional investigation is deemed necessary, then the subject of the complaint will be notified that he/she is under investigation and provided with general information regarding the allegations being investigated. Notification may request a written response.
- (5) Failure to cooperate with Board representatives during an investigation constitutes unprofessional conduct which may subject a licensee, intern, temporary practitioner, or applicant to disciplinary action. Cooperation includes:
 - (a) Submitting client records to the Board's representative, with or without a signed release by the client, for a full investigation of the allegations;
 - (b) Sending a complete case file to the Board's representative;
 - (c) Being available for a personal interview with the Board's representative; and
 - (d) Responding to questions presented by the Board's representative.
- (6) The Board may delay approving a licensure application or issuing an intern registration, temporary practice authorization, or license until a complaint has been resolved.
- (7) The investigator shall collect evidence and interview witnesses. At the conclusion of the investigation, a report will be filed with the Board in accordance with the timelines and procedures outlined in ORS 676.160–676.180. The report will clearly set forth the issues on which the Board should consider possible action.
- (8) The Board will maintain written procedures for handling complaints, which will be available through the Board office.
- (9) Complaint and information gathered by investigation into licensee or applicant competency or conduct will be kept confidential in accordance with ORS 676.160–676.180.
- (10) Licensees, interns, temporary practitioners, and applicants must comply with the terms of all Board Orders and Agreements. Failure to comply constitutes a violation of ORS 675.745(1)(f) and is grounds for disciplinary action.
- (11) All licensees and interns under a Board order or agreement that includes a term that requires supervision may satisfy that requirement by meeting with their supervisor through confidential electronic communications.

STATUTORY/OTHER AUTHORITY: ORS 675.785 - 675.835, ORS 676.160 - 676.180

STATUTES/OTHER IMPLEMENTED: ORS 675.785 - 675.835