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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

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

FILED

12/28/2022 12:33 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amendments to the LPC and LMFT supervised clinical experience requirements for licensure

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/25/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The Board received information and recommendations from Keen Independent Research (Keen), an independent third-party consulting firm that was engaged by Mental Health Regulatory Agency to conduct a demographics/diversity study of the regulated Boards pursuant to House Bill 5006 (2021). The Keen study found that Oregon's requirement for a minimum 2,400 direct client contact hours, of which a minimum 1,900 must be post-degree hours, was higher than all but three other U.S. states for both LPC and LMFT. Although the study highlighted the importance of supervised clinical experience, particularly for early career professionals, it also noted its contribution to the financial pressures facing some counselors and therapists. Keen indicated that requirements that are substantially higher than other states create a burden on professionals that can be difficult to justify based on the available evidence. On the other hand, requirements that are on the lower side introduce unknown risks for practitioners, consumers, and education programs. Therefore, Keen recommended the 500 direct client contact hour reduction that is being proposed by the Board. The Board agreed that revising the clinical experience requirements to be comparable with other states that also have rigorous standards was the optimal approach. Keen also recommended (and the Board agrees) that this change should be enacted via administrative rules, and not by state statute. This allows the Board to retain flexibility as more information about optimal requirements may be forthcoming in the future, since Keen found little empirical information to inform decisions about supervised clinical experience requirements.

The Board found that allowing more flexibility in the allowable substitution of post-licensure clinical experience for reciprocity applicants would help facilitate interjurisdictional mobility for early career professionals, and bolster the volume of counselors and therapists who consider relocating to Oregon to provide crucial mental health services to Oregonians.

The Board determined the requirement that registered associates must complete at least 1,000 of the required hours of direct client contact while in a Board-approved associate registration plan is an unnecessary barrier to licensure for

individuals coming to Oregon from out of state that have substantially completed the clinical experience requirements. It may be helpful for a trainee to have some minimal time under an Oregon plan to orient them to Oregon ethics, laws and rules; however, the Oregon Law and Rules examination was established for this purpose. Additionally, a person who has already completed all of the requisite hours out-of-state, who applies via the direct method, is not subject to this requirement, presenting a fairness issue.

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>. House Bill 5006 is available on the Oregon State Legislature website at <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB5006>. The Diversity Study prepared by Keen Independent Research, LLC is available on the OBLPCT website at https://www.oregon.gov/oblpcct/Documents/Diversity_Study_12-22.pdf.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rule amendment is likely to promote racial equity in the state. As described above, the Board is pursuing changes that remove unnecessary barriers to licensure in Oregon, and that help facilitate interjurisdictional mobility, while maintaining strong consumer protection standards consistent with its mission. The Keen study found that stakeholder feedback frequently described financial challenges related to higher supervised experience hours required for licensure as negatively impacting diversity in Oregon. Keen found layered financial barriers for practitioners entering the profession that may be insurmountable, particularly in combination with other socioeconomic challenges that are more likely for people of color, persons with disabilities, and LGBTQ+ individuals. The Board proposes that policy changes that will result in increased diversity within the counseling and therapy professions will positively affect racial equity in the State.

FISCAL AND ECONOMIC IMPACT:

This rule is expected have a positive fiscal impact on candidates seeking licensure as a professional counselor or marriage and family therapist in Oregon, though it difficult to quantify. Licensure applicants will see a reduction of 500 hours to the direct client contact hour requirement for licensure, reciprocity applicants will have more flexibility to be credited for their post-licensure experience, and those coming to Oregon with partial experience will no longer be required to spend a minimum of 1,000 as a registered associate. These changes will help many to become licensed more quickly in Oregon. This will help those who pay out-of-pocket supervision costs to save money that would otherwise have been spent on fees charged by their clinical supervisors. On the other hand, this may have a negative fiscal impact on the supervisors who would have otherwise collected those fees. A faster track to licensure also means licensees are more quickly able to bill for insurance reimbursement, which is currently limited to the Oregon Health Plan only for registered associates. It may also mean a faster increase in compensation within an agency when a registered associate is promoted to LPC or LMFT, along with expanded employment opportunities with higher earning potential that comes with licensure. This enables those with student loan debt accrued while earning their graduate degree required for licensure to more quickly begin to pay off their debt balance.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None. Businesses are not subject to this rule. The Board will absorb the costs required to implement these changes within its current staffing levels and budgeted resources.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not directly involved; however members of the Board who developed these amendments represent small businesses. Many participants in the Keen research who provided their opinions and observations represent small businesses as well.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Board did not determine that an additional committee beyond the eight-member Board and its staff was necessary to develop the rules. The Board benefitted from the extensive research and recommendations that were a part of the Keen study, which included examination of Board policies and processes, demographics analysis of the professions, review of academic literature, comparative analysis with other states, and significant stakeholder feedback that included a virtual workshop, in-depth interviews, and focus groups. The supervised clinical experience hours requirement has been discussed during eight public session Board and committee meetings between May and December of 2022, all of which allowed for public comment.

RULES PROPOSED:

833-030-0021, 833-040-0021, 833-050-0071

AMEND: 833-030-0021

RULE SUMMARY: This proposal reduces the supervised clinical experience requirement for professional counselor licensure by 500 hours, from a minimum of 2,400 hours to 1,900 hours supervised direct client contact hours of counseling. Since 400 hours may be completed pre-degree, it is noted that this results in a requirement for a minimum 1,500 hours that must be post-degree.

The proposal reduces the post-licensure clinical experience that reciprocity applicants may substitute for the required hours of supervised direct client contact by 500 hours, from 500 to 1,000, which is proportional to the reduction in total hours required for licensure. It also removes the five-year total experience threshold and allows reciprocity applicants with less than five years of post-licensure experience to substitute at a rate of 100 hours per year.

CHANGES TO RULE:

833-030-0021

Experience Requirements for Licensure as a Professional Counselor ¶

(1) To qualify for licensure as a professional counselor under ORS 675.715(1)(c) and 675.720, an applicant must have completed at least three years, defined as 36 months, of supervised clinical counseling experience.¶

(2) To qualify for licensure through the associate registration method, supervised clinical experience must meet the requirements of OAR chapter 833, divisions 50 and 130.¶

(3) To qualify for licensure through direct or reciprocity method, supervised clinical experience must have consisted of no less than ~~2,400~~ 1,900 supervised direct client contact hours of counseling. The supervised clinical counseling experience must have included any combination of the following:¶

(a) Post-graduate degree supervised experience completed in Oregon prior to June 30, 2002;¶

(b) Post-graduate degree supervised experience completed in another jurisdiction pursuant to the jurisdiction's laws and rules;¶

(c) Experience completed while a registered associate (or formerly "registered intern") with the Board; or¶

(d) Up to one year of full-time supervised clinical experience and 400 hours of supervised direct client contact completed during the clinical portion of the qualifying graduate degree program.¶

(4) For reciprocity method applicants only, ~~five or more~~ up to five years of post-license clinical experience may substitute for ~~1,000~~ a maximum of 500 hours of required supervised direct client contact, credited at a rate of 100 hours per full year (12 months) of experience.¶

(5) For direct and reciprocity methods, the experience must be a formal arrangement under the supervision of a person who holds a graduate-level state-issued license or registration, as a professional counselor or equivalent as determined by the Board such as a clinical psychologist, clinical social worker, or marriage and family therapist.

Statutory/Other Authority: ORS 675.785 - 675.835, 676.160 - 676.180

Statutes/Other Implemented: ORS 675.785 - 675.835

AMEND: 833-040-0021

RULE SUMMARY: This proposal reduces the supervised clinical experience requirement for marriage and family therapist licensure by 500 hours, from a minimum of 2,400 hours to 1,900 hours supervised direct client contact hours of therapy. Since 400 hours may be completed pre-degree, it is noted that this results in a requirement for a minimum 1,500 hours that must be post-degree. It also removes some older obsolete rule language and cleans up the current language.

The proposal reduces the minimum requirement of supervised direct client contact hours working with couples and families by 250 hours, from 1,000 to 750 hours. Since 400 of these hours may be completed pre-degree, it is noted that this results in a requirement for a minimum 350 couple and family hours to be completed post-degree.

The proposal reduces the post-licensure clinical experience that reciprocity applicants may substitute for the required hours of supervised direct client contact by 500 hours, from 500 to 1,000, which is proportional to the reduction in total hours required for licensure. It also removes the five-year total experience threshold and allows reciprocity applicants with less than five years of post-licensure experience to substitute at a rate of 100 hours per year.

CHANGES TO RULE:

833-040-0021

Experience Requirements for Licensure as a Marriage and Family Therapist ¶¶

(1) To qualify for licensure as a marriage and family therapist under ORS 675.715(1)(c) and 675.720, an applicant must have completed at least three years, defined as 36 months, of supervised clinical experience.¶¶

(2) To qualify for licensure through the associate registration method, supervised clinical experience must meet the requirements of OAR chapter 833, divisions 50 and 130.¶¶

(3) To qualify for licensure through direct or reciprocity method, supervised clinical experience must have:¶¶

~~(a) For those that apply to become a licensed marriage and family therapist before January 2, 2014, consisted of no less than 2,01,900 supervised direct client contact hours of therapy with at least 1,00750 of those hours working with couples and families.¶¶~~

~~(b) For those who apply to become a licensed marriage and family therapist on or after January 2, 2014, consisted of no less than 2,400 The supervised direct client contact hours of therapy with at least 1,000 of those hours working with couples and families.¶¶~~

~~(c) Clinical therapy must have included any combination of the following:¶¶~~

~~(Aa) Post-graduate degree supervised experience completed in Oregon prior to June 30, 2002;¶¶~~

~~(Bb) Post-graduate degree supervised experience completed in another jurisdiction pursuant to the jurisdiction's laws and rules;¶¶~~

~~(Cc) Experience completed while a registered associate (or formerly "registered intern") with the Board; or¶¶~~

~~(Dd) Up to one year of full-time supervised clinical experience and 400 hours of supervised direct client contact completed during the clinical portion of the qualifying graduate degree program.¶¶~~

(4) For reciprocity method applicants only, five or more up to five years of post-license clinical experience may substitute for 1,0a maximum of 500 hours of required supervised direct client contact, credited at a rate of 100 hours per full year (12 months) of experience.¶¶

(5) For direct and reciprocity methods, the experience must be a formal arrangement under the supervision of a person who is trained specifically in the systemic approach to couples and family therapy and holds a graduate-level state-issued license or registration, as a marriage and family therapist or equivalent as determined by the Board such as a clinical psychologist, clinical social worker, or professional counselor.

Statutory/Other Authority: ORS 675.785 - 675.835, 676.160 - 676.180

Statutes/Other Implemented: ORS 675.785 - 675.835

AMEND: 833-050-0071

RULE SUMMARY: Consistent with the proposed changes to LPC and LMFT clinical experience requirements, this proposal reduces the requirement for registered associates' supervised direct client contact by 500 hours, from 2,400 to 1,900 hours, and reduces the LMFT applicant requirement of supervised direct client contact hours working with couples and families by 250 hours, from 1,000 to 750 hours. Since 400 hours may be completed pre-degree, it is noted that this results in a requirement for a minimum 1,500 direct client contact hours (including a minimum 350 couple and family hours for LMFT applicants) that must be post-degree.

The proposal removes a requirement that registered associates must complete at least 1,000 of the required hours of direct client contact while in a Board-approved associate registration plan.

CHANGES TO RULE:

833-050-0071

Direct Client Contact ¶

(1) Registered associates must complete at least three years, defined as 36 months, of supervised clinical experience which must include no less than ~~2,400~~ 1,900 hours of supervised direct client contact to qualify for licensure.¶

~~(a) Registered associates must complete at least 1,000 of the required 2,400 hours direct client contact while in a Board-approved associate registration plan.¶~~

~~(b)~~ (2) Registered associates may count direct client contact hours acquired outside an associate registration plan only as follows:¶

(Aa) Up to one year of full-time supervised clinical experience and 400 direct client contact hours accrued as part of a graduate degree internship;¶

~~(Bb)~~ Post-graduate degree supervised direct client contact hours completed in Oregon prior to June 30, 2002; and¶

~~(Cc)~~ Post-graduate degree supervised direct client contact hours completed in another jurisdiction pursuant to the jurisdiction's laws and rules that meet the direct application method experience requirements.¶

~~(23)~~ Applicants for LMFT must accrue ~~2,400~~ 1,900 hours of supervised direct client contact with at least ~~1,000~~ 750 of those hours working with couples and families to qualify for licensure.¶

~~(34)~~ Applications for dual licensure as professional counselor and marriage and family therapist must meet the requirements for both licenses.¶

~~(45)~~ Direct client contact must be face to face with a client or clients and/or contact via electronic communication consistent with OAR 833 division 90.¶

~~(56)~~ Registered associates must receive and document supervision for and report all direct client contact hours at places of practice listed as part of their Board-approved plan.

Statutory/Other Authority: ORS 675.785 - 675.835, 676.160 - 676.180

Statutes/Other Implemented: ORS 675.785 - 675.835