

64B4ER20-20 Definition of "Face-to-Face psychotherapy"

(1) "Face-to-face psychotherapy" for clinical social workers, marriage and family therapists, and mental health counselors registered pursuant to Section 491.0045, F.S., includes face-to-face electronic methods, not including telephone only communication, so long as the registered intern establishes and adheres to the following:

(a) The registered intern has an established qualified supervisor and maintains the same qualified supervisor for the duration of the application of this rule;

(b) The registered intern has a written telehealth protocol and safety plan in place with their current qualified supervisor which includes the provision that the qualified supervisor must be readily available during the electronic therapy session; and

(c) The registered intern and the client have an existing therapeutic relationship established prior to the effective date of this rule.

(2) Notwithstanding 64B4-2.002(3) and (4), F.A.C., a qualified supervisor may utilize face-to-face electronic methods (not telephone only communication) to conduct all supervisory sessions for internship hours.

Rulemaking Authority 491.004(5), 491.005(1)(c), (3)(c), (4)(c) FS. Law Implemented 491.005(1)(c), (3)(c), (4)(c)

FS. History—New, \_\_\_\_\_.

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NOTICE OF EMERGENCY RULE

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling

RULE TITLE:

RULE NO.:

Definition of "Face-to-Face psychotherapy"

64B4ER20-20

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: The Board Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (hereinafter the "Board") is statutorily mandated to adopt rules to implement and enforce the provisions of Chapter 491, Florida Statutes. Pursuant to this authority, the Board has promulgated rules setting forth the guidelines and requirements for clinical social work, marriage and family therapy, and mental health counseling interns while completing internship hours.

Rule 64B4-2.002, Florida Administrative Code, requires interns to complete clinical internship hours by face-to-face psychotherapy with client. It distinguishes between face-to-face psychotherapy and face-to-face by electronic methods for sessions with the intern's Qualified Supervisor. The rule currently does not allow face-to-face psychotherapy by electronic methods with clients. Additionally, the Rule also limits the number of face-to-face supervision sessions between registered interns and their Qualified Supervisors to 50% of the total number of supervision sessions by electronic methods.

On March 1, 2020, Florida Governor Ron DeSantis issued Executive Order Number 20-51 which directed the State Health Officer and Surgeon General, Dr. Scott Rivkees, to declare a public health emergency pursuant to the spread of the Coronavirus Disease 2019 (COVID-19). On March 9, 2020, Governor DeSantis issued Executive Order Number 20-52 (Emergency Management - COVID-19 Public Health Emergency) and officially declared that a state of emergency exists in the State of Florida. COVID-19 is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza. As of March 18, 2020, there are 314 cases of COVID-19 in the State of Florida, with the number rising rapidly. The Center for Disease Control ("CDC") recommends mitigation measures to combat the spread of COVID-19 such as staying home when sick, keeping away from others who are sick, staying home when a household member is sick with respiratory disease symptoms, and for those who are at higher risk, including older adults and those who have serious chronic medical conditions, to avoid non-essential air travel and to avoid crowds as much as possible.

Since the issuance of the Executive Order and the declaration of a public health emergency by the State Health

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Officer and Surgeon General Dr. Rivkees, the Board office has received numerous calls and emails from registered interns and qualified supervisors concerned about the dangers of individual therapy and supervision sessions related to COVID-19. Inquiries have been made as to whether there are alternative methods by which clients can receive a continuation of therapy and allowing the expansion of supervision by electronic means thereby eliminating the possibility of contracting or spreading COVID-19. Many registered interns, Qualified Supervisors, and clients of registered interns are included as part of the particularly vulnerable population impacted by COVID-19 as identified by the CDC. As the current rule requires that all psychotherapy sessions between a registered intern and their clients take place face-to-face at the same location and since qualified supervisor sessions are limited to only 50% of meeting via electronic means, this emergency change will ensure that Florida's citizens continue to have access to their mental health care professional and are not denied services or placed in unnecessary risk. This change is essential during this healthcare emergency.

Accordingly, the Board, by emergency rule, allows for the continuation of services to existing clients of registered interns so that their necessary and helpful psychotherapeutic services are not interrupted and can continue. The Board finds that these actions are a measured regulatory approach that helps to mitigate the threat of exposure to COVID-19 and to protect the registered interns and their clients from exposure to COVID-19.

**REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:**

Given the recently declared emergency in the State of Florida and the recent guidance from the CDC and the risk of denying mental health care services to citizens of Florida during the current declared emergency, the Board finds that an immediate danger to the public health, safety, or welfare necessitates immediate action. Notice of this emergency meeting was published in the Florida Administrative Register on March 18, 2020. In addition, notice of the Board's emergency meeting was posted on the Board's official website.

**SUMMARY:** The proposed emergency rule allows for a continuation of services to Florida's mental health care recipients of registered interns which will likely be interrupted due to risk of transmittal of COVID-19 during the present health care emergency as registered interns are not currently able to provide services via remote electronic methods.

**THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS:** Janet Hartman Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin # C-06 Tallahassee, Florida 32399-3256.

CERTIFICATION OF  
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE  
AND FAMILY THERAPY, AND MENTAL HEALTH COUNSELING  
FILED WITH THE DEPARTMENT OF STATE

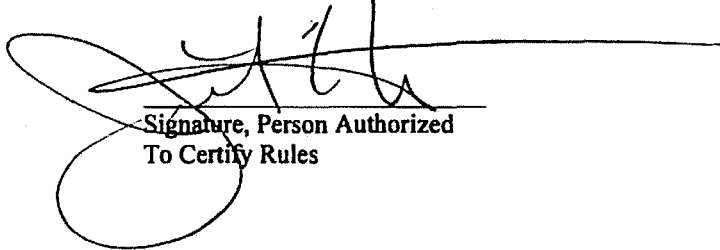
I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with subsection 120.54(4), Florida Statutes. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

Rule No.

64B4ER20-20

Under the provision of subparagraph 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing is set out below:

Effective: \_\_\_\_\_  
(Month) (Day) (Year)

  
\_\_\_\_\_  
Signature, Person Authorized  
To Certify Rules

Executive Director for Lisa Bolhouse, Chair  
Title

\_\_\_\_\_  
Number of Pages Certified

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