



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** Professional Practice Committee

**FROM:** Sarah S. Benson *Sarah S. Benson*

**SUBJECT:** Proposed Amendment of Sections 72.6, 74.10, 79-9.8, 79-10.8, 79-11.8, and 79-12.8 of the Regulations of the Commissioner of Education Relating to Continuing Education Requirements for Psychologists, Social Workers and Mental Health Practitioners

**DATE:** April 6, 2022

**AUTHORIZATION(S):** *Jan M. G. Bellotti*

## SUMMARY

### Issue for Discussion

Should the Board of Regents amend sections 72.6, 74.10, 79-9.8, 79-10.8, 79-11.8, and 79-12.8 of the Regulations of the Commissioner of Education relating to continuing education requirements for psychologists, social workers and mental health practitioners?

### Reason for Consideration

Review of policy.

### Proposed Handling

The proposed amendments will be presented to the Professional Practice Committee for discussion at the April 2022 meeting of the Board of Regents. A copy of the proposed rule is attached (Attachment A).

### Procedural History

A Notice of Proposed Rule Making will be published in the State Register on April 27, 2022. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

## **Background Information**

Several disciplinary matters have recently come before the Board of Regents for action against licensed psychologists, social workers and mental health practitioners, which, included, among other things, boundary violations. Boundary violations are based on an unequal power relationship, where the licensed professional has the role of authority in the professional relationship and access to personal, confidential information about the patient/client. Examples of recent boundary violation disciplinary matters include:

- Licensee leaving multiple messages on a former patient's voicemail with inappropriate statements;
- Licensee sending inappropriate text messages to a patient on more than one occasion, causing such patient to think that licensee and patient were friends; and
- Licensee sending abundant text messages, which were not therapy-related, to a patient's phone, outside of their normally scheduled therapeutic meeting times, over a period of several months.

When a professional violates the patient's/client's trust by converting the professional into the personal, some patients/clients may not recognize the violation. In other cases, the patient/client may want to avoid terminating the professional relationship and, therefore, may not report inappropriate action by the licensee who is responsible for establishing and maintaining boundaries.<sup>1</sup> Therefore, it is likely that boundary violations occur more frequently than suggested even by the Board of Regents disciplinary actions.

The Education Law defines the license and practice of psychologists (Article 153), licensed master social work and licensed clinical social work (Article 154), and mental health counselors, marriage and family therapists, creative arts therapists and psychoanalysts (Article 163; together, "mental health practitioners"). Licensees in each of these seven professions must complete 36 hours of continuing education from a Department-approved provider each triennial registration period (Education Law §§7607[1], 7710[1] and 8410[1]). Licensees can only practice their professions if their registrations are current.

Pursuant to Education Law §§7607(3)(c), 7710(3)(b) and 8412(3)(b), the Department is authorized, in its discretion and as needed to contribute to the health and welfare of the public, to require the completion of continuing education courses in specific subjects to fulfill the mandatory continuing education requirements for psychologists, social workers and mental health practitioners, respectively.

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<sup>1</sup> Practice guidelines on appropriate professional boundaries for these professions can be found at:  
Psychology: <http://www.op.nysed.gov/prof/psych/psychdual.htm>  
Social Work: <http://www.op.nysed.gov/prof/sw/swboundaries.htm>  
Mental Health Practitioners: <http://www.op.nysed.gov/prof/mhp/mhppg5.htm>

## **Proposed Amendments**

To further the interest of public health and protection, the proposed amendments to sections 72.6, 74.10, 79-9.8, 79-10.8, 79-11.8, and 79-12.8 of the Commissioner's regulations require psychologists, social workers and mental health practitioners to complete three continuing education credits on issues related to maintaining appropriate professional boundaries with patients/clients commencing with registration periods beginning on and after April 1, 2023. While professional education programs for psychology, social work and mental health practitioners include overviews of professional ethics that underlie those professions and discussions about transference and countertransference, licensees may be faced with real world challenges when engaged in practice that go beyond those covered by these educational requirements. Newly licensed and experienced professionals may blur the boundaries that separate the professional from the personal. Therefore, it is proposed that each licensee in these professions, whether engaged in education, direct patient care or administration, be required to complete three hours of acceptable continuing education in maintaining appropriate boundaries in professional relationships.

## **Related Regents Items**

Not applicable.

## **Timetable for Implementation**

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption at the September 2022 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the September 2022 meeting the proposed rule will become effective on September 28, 2022.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 7607, 7710 and 8412 of the Education Law.

1. Subdivision (c) of section 72.6 of the Regulations of the Commissioner of Education is amended, to read as follows:

(c) The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement.

(i) Commencing with registration periods beginning on or after April 1, 2023, a licensee shall complete, as part of the required 36 hours of continuing education, three hours of continuing education on issues related to maintaining appropriate professional boundaries between licensees and patients, from a provider approved by the department.

2. Clause (c) of subparagraph (ii) of paragraph (2) of subdivision (c) of section 74.10 of the Regulations of the Commissioner of Education is amended, to read as follows:

(c) The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement.

(i) Commencing with registration periods beginning on or after April 1, 2023, a licensee shall complete, as part of the required 36 hours of continuing education, three hours of continuing education on issues related to maintaining appropriate professional

boundaries between licensees and patients, from a provider approved by the department.

3. Clause (c) of subparagraph (ii) paragraph (2) of subdivision (c) of section 79-9.8 of the Regulations of the Commissioner of Education is amended, to read as follows:

(c) The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement.

(i) Commencing with registration periods beginning on or after April 1, 2023, a licensee shall complete, as part of the required 36 hours of continuing education, three hours of continuing education on issues related to maintaining appropriate professional boundaries licensees and patients, from a provider approved by the department.

4. Clause (c) of subparagraph (ii) of paragraph (2) of subdivision (c) of section 79-10.8 of the Regulations of the Commissioner of Education is amended, to read as follows:

(c) The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement.

(i) Commencing with registration periods beginning on or after April 1, 2023, a licensee shall complete, as part of the required 36 hours of continuing education, three hours of continuing education on issues related to maintaining appropriate professional boundaries between licensees and patients, from a provider approved by the department.

5. Clause (c) of subparagraph (ii) of paragraph (2) of subdivision (c) of section 79-11.8 of the Regulations of the Commissioner of Education is amended, to read as

follows:

(c) The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement.

(i) Commencing with registration periods beginning on or after April 1, 2023, a licensee shall complete, as part of the required 36 hours of continuing education, three hours of continuing education on issues related to maintaining appropriate professional boundaries between licensees and patients, from a provider approved by the department.

6. Clause (c) of subparagraph (ii) of paragraph (2) of subdivision (c) of section 79-12.8 of the Regulations of the Commissioner of Education is amended, to read as follows:

(c) The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects to fulfill this mandatory continuing education requirement.

(i) Commencing with registration periods beginning on or after April 1, 2023, a licensee shall complete, as part of the required 36 hours of continuing education, three hours of continuing education on issues related to maintaining appropriate professional boundaries between licensees and patients, from a provider approved by the department.