

## Payment for Supervision

### Avoiding Liability Bulletin - April 2010

The issue of payment for supervision is once again being raised in California with respect to the marriage and family therapy and social work professions. This time the question being asked is whether an employer may lawfully charge or receive payment for supervision provided to an employed or volunteering intern. For many years, payment by pre-licensed persons (such as, registered interns) for supervision has been permissible (with respect to the acceptability of hours of experience), except when employed in a private practice setting. Recently, the licensing board for these two professions sponsored a bill that removed the restriction on payment for supervision when a pre-licensed person is employed in a private practice setting. Thus, the licensing board (Board of Behavioral Sciences) has for many years counted the hours of experience of interns and trainees regardless of whether such pre-licensed persons paid for supervision or not (except in private practice settings – which was for a long time prohibited, but no longer).

Employers who hire interns or trainees must be careful, however, that they do not run afoul of state labor laws pertaining to the payment of wages. For example, the California Labor Code makes it unlawful for an employer to collect or receive from an employee any part of wages previously (the statute uses the word “theretofore”) paid by the employer to the employee. There are exceptions to this law, one of which allows a deduction from the employee’s wages when a deduction is expressly authorized in writing by the employee and the deduction does not amount to a rebate or deduction from the standard wage arrived at pursuant to a wage agreement. These laws are intended to prevent the employer from exploiting the employee. Typically, a state labor authority would get involved if and when an employee files a complaint alleging that he or she has been exploited by the employer.

A written agreement between the employee and employer might include, for example, that the employee understands that his or her wage is fixed at a specific amount, that he or she agrees that the employer is not obligated (some may be) to provide the kind and amount of supervision required by the licensing law for the employee to be credited with hours of experience toward licensure, that the supervision to be given is for the personal benefit of the employee who is seeking state licensure, and that the employee understands and agrees that the payment for such supervision is voluntary and is not considered by the employee to be a deduction from wages. To determine whether or not such an agreement (with different or additional provisions, depending upon the specific arrangement) is satisfactory, employers must get their own legal advice in order to make sure that they do not violate applicable state laws.

How is the issue of payment for supervision handled in the state in which you practice? Are employers allowed to charge or receive payment for supervision? Does the licensing board accept hours of experience gained toward licensure when the pre-licensed person pays for supervision? May employers (including nonprofits) charge volunteers or employees a “training fee” rather than

charge for supervision?

**Author:**

Richard Leslie