



Board of Behavioral Sciences



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Gavin Newsom, Governor  
State of California

Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

## TELEHEALTH COMMITTEE MINUTES

A recorded webcast of this meeting is available at <https://youtu.be/LaJk532Jfs4>.

**DATE** August 6, 2021

**MEETING PLATFORM** WebEx Video/Phone Conference

**Pursuant to the provisions of Governor Gavin Newsom’s Executive Order N-25-20, dated June 11, 2021, neither a public location nor teleconference locations are provided.**

**TIME** 11:00 a.m.

### ATTENDEES

**Members Present:** Christina Wong, Chair, LCSW Member  
Susan Friedman, Public Member

**Members Absent:** Christopher Jones, LEP Member

**Staff Present:** Steve Sodergren, Executive Officer  
Rosanne Helms, Legislative Manager  
Christy Berger, Regulatory Analyst  
Christina Kitamura, Administrative Analyst  
Sabina Knight, Legal Counsel

**Other Attendees:** Public participation via WebEx video conference/phone conference

## **I. Call to Order and Establishment of Quorum**

Christina Wong, Chair of the Telehealth Committee (Committee) called the meeting to order at 11:07 a.m. Roll was called, and a quorum was established.

## **II. Introductions**

Committee members and Board staff introduced themselves.

## **III. Consent Calendar**

### **a. Discussion and Possible Approval of June 25, 2021 Committee Meeting Minutes**

This item was tabled.

## **IV. Overview of the Committee's Roles and Tasks**

The Committee members and stakeholders have discussed the following:

- Future topic areas that the Committee should focus on.
- The Board's existing statutes and regulations related to telehealth.
- Laws of several other states that pertain to temporary practice across state lines.
- Potential telehealth coursework requirement. (This discussion to be continued.)
- Potential clarification of telehealth laws for associates and trainees. (This discussion to be continued.)
- Supervision via videoconferencing. (This discussion to be continued September 10<sup>th</sup>.)

Ben Caldwell: Regarding the discussion on supervision via videoconferencing, requested to get information about whether there have been complaints related to online supervision of trainees during the pandemic, and if so, how many were received.

## **V. Discussion and Possible Recommendation Regarding Potential Telehealth Coursework Requirement**

The Committee has expressed interest in requiring training or coursework regarding delivery of mental health services to clients via telehealth, to ensure its licensees are competent in its delivery. At its June 2021 meeting, the Committee directed staff to draft language requiring such training, using the recently added statute requiring coursework in suicide risk assessment and intervention as a model.

The draft language does the following:

- Requires applicants for licensure on or after January 1, 2023 to submit proof of completion of 6 hours of training or coursework in the provision of mental health services via telehealth, with their application.
- Requires licensees, upon their first renewal on or after January 1, 2023, to attest to having completed 6 hours of training or coursework in the provision of mental health services via telehealth.
- Specifies that the training or coursework is a one-time requirement and may be completed either as part of the qualifying degree program, or by taking a continuing education course.

The Committee was asked to consider the following in its review:

1. Is 6 hours an appropriate amount of training or coursework?
2. Is the timing of when the training or coursework is required appropriate (at application for licensure for new applicants, at renewal for current licensees)?
3. The proposal does not allow applied experience to count, as the suicide risk assessment and intervention requirement does.
4. Is delayed implementation needed?
5. Does the training or coursework description used in the proposal, “provision of mental health services via telehealth” accurately capture what the Board is trying to achieve? Should more specific course topics be called out?

The Board is in the process of conducting four surveys regarding the practice of telehealth and supervision via videoconferencing. School programs, supervisors, associates, and trainees/interns are being surveyed. The survey contains questions regarding school offerings of coursework regarding delivery of mental health services to clients via telehealth, the adequacy of the offerings, and specific topics covered. The results of the surveys will be discussed at the Committee meeting on September 10<sup>th</sup>.

Christina Wong: 6 hours is appropriate, the timing is appropriate, and prefers to implement this right away.

Ben Caldwell: Wonders about the necessity of this requirement since everyone has been doing telehealth since March 2020. Continuing education (CE) courses in telehealth have been available during the pandemic, and many have taken those courses. A 6-hour training requirement is well intended, but it comes well after the time that everybody started doing telehealth – it may be unnecessary. When tied to the renewal or the licensure process for associates, the training comes years after they have been providing telehealth. Maybe add it to the curriculum.

Caldwell: Does the course need to be state-specific?

Jennifer Alley, California Association of Marriage and Family Therapists (CAMFT): Concerned about promoting a survey with specific questions regarding telehealth training and what topics should be covered; and the Board making decisions based on the industry's opinion. It is unknown how 6 hours was determined to be the appropriate length for CE. CAMFT questions the need for the course.

Mario Espitia: Suggested adding language to the proposal as to why the course is being mandated.

Rosanne Helms: Suggested waiting for survey results and proceed from there.

No action taken.

**VI. Discussion and Possible Recommendation of Amendments to Clarify Telehealth Laws for Associates and Trainees (Business and Professions Code (BPC) §§2290.5, 4980.36, 4980.37, 4980.42, 4980.43.3, 4980.78, 4996.15, 4996.23, 4996.23.2, 4999.32, 4999.33, 4999.36, 4999.46.3, 4999.62)**

A common question is whether associates and trainees are permitted to provide services to clients via telehealth. The Committee has determined a need to clarify this further in statute.

**Associates and Telehealth**

Marriage and family therapist associates (AMFTs) and trainees are both explicitly permitted to perform services via telehealth. Business and Professions Code (BPC) §4980.43.3(i):

*An associate or a trainee may provide services via telehealth that are in the scope of practice outlined in this chapter.*

The Licensed Clinical Social Workers (LCSW) and Licensed Professional Clinical Counselors (LPCC) practice acts are silent about the matter. However, associate clinical social workers (ASWs) and associate professional clinical counselors (APCCs) are permitted to perform services via telehealth because Business and Professions Code defines a health care provider who performs telehealth as the following:

*§2290.5(a)(3) "Health care provider" means any of the following:*

*(A) A person who is licensed under this division.*

*(B) An associate marriage and family therapist or marriage and family therapist trainee functioning pursuant to Section 4980.43.3.*

*(C) A qualified autism service provider or qualified autism service professional certified by a national entity pursuant to Section 1374.73 of the Health and Safety Code and Section 10144.51 of the Insurance Code.*

The reason that ASWs and APCCs are permitted to perform services via telehealth, even though not explicitly stated, is because BPC §23.8 states that when “licensees” are referred to in the Business and Professions Code, the term also includes registrants (associates). Therefore, AMFT, ASW, and APCC technically do not need to be specifically listed in the definition of a health care provider in BPC §2290.5 in order to be permitted to practice via telehealth.

However, the fact that AMFTs are listed in the definition but APCCs and ASWs are not has led to confusion about whether ASWs and APCCs can perform services via telehealth.

The Board is pursuing an amendment in this year’s omnibus bill to include ASWs and APCCs in the definition of health care providers who may provide services via telehealth in BPC §2290.5.

Proposed Amendments: Attachment A (provided)

- Amend BPC §§4996.23.2(k) (LCSW law) and 4999.46.3(j) (LPCC law) to correspond with the already existing clarification in §4980.43.3(i) of the Licensed Marriage and Family Therapist (LMFT) law that associates may perform services via telehealth.

**Trainees and Telehealth**

The law does not specifically address whether social work interns and professional clinical counselor trainees (PCC trainees) may provide services via telehealth. These trainees are presumably not included in the definition of a “licensee” in BPC 23.8, because they are not registered with the Board.

MFT trainees are already included as providers who can perform services via telehealth, because it is explicitly stated in BPC §§2290.5, and 4980.43.3(i). However, the law is silent on this for social work interns and PCC trainees. Social work interns and PCC trainees are not permitted to count pre-degree.

Proposed Amendments: Attachment A (provided)

- Amend BPC §2290.5 to specify that professional clinical counselor trainees may provide services via telehealth.

Note: The National Association of Social Workers California Chapter (NASW-CA) has expressed that a similar clarification for social work interns not be made, because social work schools already have their own policies.

- Amend BPC §4999.46.3(j) (LPCC law) to correspond with the already existing clarification in §4980.43.3(i) of LMFT law that trainees may perform services via telehealth.

Note: NASW-CA has expressed that a similar clarification for social work interns not be made.

- Amendments to BPC §§ 4980.42 (LMFT law) and 4999.36 (LPCC law) to state trainee experience via telehealth is at the discretion of the school, the supervisor, or both the school and the supervisor together.

### Discussion

Christina Wong: Likes the language.

Jennifer Alley (CAMFT): Regarding the language for §4980.42, CAMFT has concerns with the term “or.” Has concerns with allowing associates and trainees to perform telehealth with no clear cap. Wants to see the survey before developing any language.

Helms: Legislative Counsel may not allow “and/or”; alternative language was provided changing to “the school and the site.”

### **Practicum Clarification: “Face-to-Face” Requirement**

Should it be determined that all trainees may provide services via telehealth, a question arises about the “face-to-face” practicum hours required as part of the degree programs leading to LMFT and LPCC licensure.

At the last meeting, the Committee discussed clarifying whether “face-to-face” hours must be in person, via telehealth, or some combination of the two.

### **Proposed Amendments: Attachment B (provided)**

- Delete the “face-to-face” reference in the practicum requirements in BPC §§ 4980.36 (current LMFT degrees), 4980.78 (out-of-state LMFT applicants), 4999.33 (current LPCC degrees), and 4999.62 (out-of-state LPCC applicants). The change was not made in 4980.37 (LMFT older degrees) and 4999.32 (older LPCC degrees) because degrees accepted under these requirements have already been completed.
- Amend the practicum experience requirement to state that the school, the supervisor, or both the school and the supervisor may utilize their discretion to incorporate a mix of in-person and telehealth experience. BPC §§ 4980.36 (current LMFT degrees), 4980.78 (out-of-state LMFT applicants), 4999.33 (current LPCC degrees), and 4999.62 (out-of-state LPCC applicants). The

change was not made in 4980.37 (LMFT older degrees) and 4999.32 (older LPCC degrees) because degrees accepted under these requirements have already been completed.)

### Discussion

Caldwell: The language regarding incorporating a mix (Attachment B 4980.36) creates some questions. "Face-to-face" is proposed to be deleted and because it is already explicit in law, and the Committee is working on making the law clearer that trainees are allowed to conduct telehealth, is the "mix" language necessary at all? The intention is best met by deleting "face-to-face" language.

Helms: Everyone agrees that telehealth is not necessarily face-to-face, and it's covered in Attachment A; therefore, it would be appropriate to delete "face-to-face" and not adding language referring the school, supervisor or the mix of in-person and telehealth experience.

Alley, CAMFT: Concerned about deleting the "face-to-face" language without analyzing the survey results. The data involving input from schools and supervisors based on their knowledge will be helpful.

### **Clarification for LCSW Experience Hours: "Face-to-Face" Requirement**

ASWs are required by law to obtain at least 750 "face-to-face" individual or group psychotherapy hours in the context of clinical social work services (BPC §4996.23(d)(2)). Should these "face-to-face" hours be in person, via telehealth, or a combination of the two.

Staff believes the main intent of this sentence is to ensure that ASWs gain a specific amount of experience hours directly related to clinical social work. However, as telehealth becomes more prevalent, the use of the term "face-to-face" in this context has caused some confusion. Staff does not believe the intent of the law was to distinguish whether or not these hours are gained in-person or via telehealth. Given that associates are already permitted to perform services via telehealth, staff recommends striking the term "face-to-face" in this sentence.

Since clarifications are being made elsewhere in law that experience hours can be gained by associates via telehealth, it is appropriate to strike the term "face-to-face."

### **Proposed Amendment (Attachment C):**

- Strike the term "face-to-face" in BPC section 4996.23(d)(2).

Discussion

Rebecca Gonzales, National Association of Social Workers California Chapter (NASW-CA): Supports this change.

**MOTION:** Direct staff to change the language in Attachment A from “school and supervisor” to “school and site”; strike the sentence referring to the mix of hours in Attachment B, and bring it back to the Telehealth Committee meeting after survey results are reviewed.

Wong moved; Friedman seconded. Vote: 2 yea, 0 nay. Motion carried.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Susan Friedman	x				
Christopher Jones				x	
Christina Wong	x				

**VII. Discussion for Future Meeting Dates**

- September 10<sup>th</sup> to review the survey results
- October 1<sup>st</sup> at 9:00 a.m.

**VIII. Public Comment for Items Not on the Agenda**

Alley, CAMFT: There may be some confusion on the interpretation of face-to-face with some of the waivers. Requested a review and possible update of the Board’s FAQs for anything that has changed regarding face-to-face.

**IX. Suggestions for Future Agenda Items**

None

**X. Adjournment**

The Committee adjourned at 12:38 p.m.