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To: Committee Members **Date:** November 30, 2020

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Subject: Overview of the Purpose of the Telehealth Committee and

Identification of Issues for Discussion

Purpose of the Committee

The Board of Behavioral Sciences (Board) has established a special Telehealth Committee to determine if any of the Board's statutes and regulations related to the practice of telehealth by its licensees, registrants, and trainees need to be updated or clarified.

Background

Business and Professions Code (BPC) section 2290.5 (**Attachment A**) is the main statute that pertains to Board licensees providing services via telehealth. In addition to this statute, which applies to all healing arts practitioners in general, several other statutes in the Board's practice acts touch on the issue of trainees and registrants providing telehealth. Additionally, in 2016 the Board adopted telehealth regulations applicable specifically to the professions it regulates. The Board's telehealth regulations can be found in **Attachment B**.

Although the Board was already planning to discuss whether any of its telehealth laws needed updating, the COVID-19 State of Emergency has further highlighted several issues related to telehealth that may need to be clarified or addressed.

Issues for Discussion

Staff has identified the following potential topics related to telehealth that the Committee may wish to discuss at future meetings. These topics are based on feedback or common questions from licensees and registrants, stakeholders, Board members, and Board staff.

- 1. The ability of pre-licensed individuals (trainees) to perform services via telehealth (possible BPC §2290.5(a)(3) clarification).
- 2. The ability of MFT and PCC trainees to gain required practicum hours via telehealth. (Possible clarification of "face-to-face" terminology in BPC §§4980.36(d)(1)(B), 4980.37(c)(2), 4999.32(c)(3), and 4999.33(c)(3)).

- 3. The allowable settings for pre-licensed individuals to perform services via telehealth. (i.e. Can it be from home? Or must it be from the work site? Can they perform services with clients located in California if temporarily in another state?)
- 4. The supervision via videoconferencing requirements for both associates and trainees. Also, the use of the term "face-to-face" contact in these sections when defining direct supervisor contact. (BPC §§4980.43.2(b) and (d), 4996.23.1(b) and (f), 4999.46.2(b) and (d))
- 5. Review of current BBS telehealth regulations, including discussion of §1815.5(e) specifically.
- 6. Examination and discussion of newer delivery methods being offered (email, texting, app-based).
- 7. Examination and discussion of regulating online therapy sites operating in California (i.e. via advertising guidelines, etc.).
- 8. The possibility of adding a temporary/incidental allowance for out-of-state licensees to perform services for clients that have moved to California, or are temporarily located in California (both in an emergency situation, and incidentally, such as traveling or for college).
- 9. Examination of the U.S. Department of Veteran's Affairs telehealth allowance.
- 10. Examination and discussion of interstate compacts.
- 11. Telehealth and Medicaid/Medicare reimbursement.
- 12. Discussion of outreach strategy to educate California consumers about online therapy (consumer rights, possible downfalls, etc.).
- 13. Any other topics?

Recommendation

The Committee may wish to discuss including the topics above, and if there are any other issues related to telehealth that it would like to include in the list above for discussion at future meetings. It also may wish to discuss if there is a preferred order in which it would like to discuss the above topics.

Attachments

Attachment A: Link to Telehealth Statute: Business and Professions Code <u>Section</u> 2290.5

Attachment B: Link to Telehealth Regulation: California Code of Regulations Title 16, Section 1815.5