



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/TITMh4un-0Y>.

DATE June 25, 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 9:00 a.m.

ATTENDEES

Members Present: Christina Wong, Chair, LCSW Member
Susan Friedman, Public Member
Christopher Jones, LEP Member

Members Absent: Susan Friedman at 12:15 p.m.

Staff Present: Steve Sodergren, Executive Officer
Rosanne Helms, Legislative Manager
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 9:00 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 March 26, 2021 Committee Meeting Minutes

MOTION: Approve the March 26, 2021 Committee meeting minutes.

Wong moved; Friedman seconded. Vote: 3 yea, 0 nay. Motion carried.

Roll call vote:

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

IV. Overview of the Committee’s Roles and Tasks

The purpose of the Committee is to determine if any of the Board’s statutes and regulations related to the practice of telehealth by Board licensees, registrants, and trainees need to be updated or clarified.

The Committee 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 clarification of telehealth laws for associates and trainees.
- Supervision via videoconferencing.

V. Overview and Discussion of Other States’ Telehealth Allowances

The Association of Social Work Boards (ASWB) provided two spreadsheets:

- The first spreadsheet outlined licensure waivers and allowances that other social work licensing boards adopted due to due to the COVID state of

emergency, which often included waivers and allowances for telehealth and supervision via telehealth.

- The second spreadsheet provided information about other social work licensing boards' laws related to clinical supervised experience and electronic practice.

VI. Discussion of Potential Telehealth Coursework Requirement

At the last Committee meeting, Board members and stakeholders suggested the possibility of requiring training on providing services to clients via telehealth and also on supervision via telehealth.

The topic of providing services to clients via telehealth could be added to the degree program requirements for new applicants moving forward. For existing associates and licensees who are finished with school, this would be accomplished via continuing education (CE).

For licensees who supervise, coursework regarding supervision via videoconference could be required as part of their one-time 15-hour supervision course, or as part of their 6-hour biennial continuing professional development.

Chris Jones: CE coursework should be added for current supervisors. There's not a lot of research available; there's a lot of unknowns and we should err on the side of caution.

Susan Friedman: In favor of a 15-hour supervision course.

Christina Wong: We should be cautious about adding additional CE; however, this is warranted. Need to determine whether this will be an ongoing requirement or a one-time requirement.

Steve Sodergren: Inquiries made to Board staff are asking "can we do telehealth," not "how do we do telehealth."

Discussion and Public Comment:

Jennifer Alley, California Association of Marriage and Family Therapists (CAMFT): Training could be added to the coursework for trainees. CAMFT hesitates to mandate more CE courses for licensees. Suggested adding a question to the survey asking how telehealth training should be implemented.

Comments were received from students and supervisors supporting the addition of telehealth in the curriculum.

Comments were received from university educators that the programs are implementing telehealth into the coursework and making changes in curriculum to meet the changes in the communities.

Ben Caldwell: The training requirement should line up with the policy. If telehealth supervision is going to be allowed supervision settings on an ongoing basis, then every supervisor should be trained and providing supervision by telehealth.

Comments were received by supervisors and educators expressing the need for protocol and training for crisis situations on the telehealth platform.

Darlene Davis: Mandating specific trainings for supervisors could be a barrier. Suggests leaving it to the trainers and trainees; however, supports specific telehealth coursework in the first 15 hours of training for new supervisors.

Rosanne Helms: Draft language regarding 6 units of coursework on telehealth for everyone (associates, pre-licensees, licensees upon licensure), using the language from the suicide assessment bill as a model.

Supervision via video conferencing – this discussion will take place under item VIII.

No action taken.

VII. 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.

Marriage and family therapist associates (AMFTs) and trainees are permitted to perform services via telehealth.

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 telehealth services because BPC §2290.5 defines a health care provider who performs telehealth.

Based on that definition, AMFT, ASW, and APCC associates 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 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 telehealth services.

The Board is pursuing an amendment in the omnibus bill to include ASWs and APCCs in the definition of health care providers who may provide services via telehealth.

The law does not specifically address whether social work interns and professional clinical counselor trainees can provide telehealth services. Because they're not included in the definition of a licensee in BPC §23.8, the answer may be no. However, MFT trainees are included as providers to perform services.

Staff presented potential amendments to BPC §2290.5 to specify that professional clinical counselor trainees may provide services via telehealth.

Staff is also requesting to amend §4999.46.3(j) of the LPCC law to correspond with existing clarification in LMFT law that trainees may perform telehealth services.

Staff noted a possible amendment to BPC §4980.42 and §4999.36 for LMFT and LPCC law to state experience via telehealth is at the discretion of the school and supervisor.

Discussion and Public Comment on Attachment A: Associates, Trainees and Telehealth

Committee members preferred option 2.

Sierra Smith: Prefers option 1 because it requires less interaction between the supervisors and the school. Concerned about conversations that are required for each clinician, between every supervisor and professor, which could be challenging.

Wong: Suggested that the language state "the school and/or the supervisor."

MOTION: Adopt the amendments in Attachment A and for BPC sections 4980.42 and 4999.32 to adopt the second option "f" with amendments.

Wong moved; Jones seconded. Vote: 3 yea, 0 nay. Motion carried.

Roll call vote:

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

Discussion and Public Comment on Attachment B: Practicum Clarification for Face-to-Face Requirement

Should the Board determine 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. Should face-to-face hours be in-person, via telehealth, or a combination of the two?

Susan Friedman: Discretion should be left to the schools.

Jones: It's important to leave the discretion to the training programs; however, it's important that the Board sets clear standards so that the training programs have a guideline.

Helms: Presented a question that arises often from schools regarding trainees doing telehealth from out-of-state, and if that is allowable. Leaving discretion to the schools may be an issue for the Committee to consider.

Jones: This could backfire.

Caldwell: Comfortable with allowing flexibility for the schools.

Michelle Crawford-Morrison: Would prefer the language for LPCCs match the LMFT language.

Alley, CAMFT: Suggested looking at the survey responses from educators and trainees before moving forward with any changes.

Several comments were received requesting flexibility for the schools.

Helms: Offered a 4th option to leave it as it but clarify it to indicate in-person or via telehealth.

The Committee preferred the 2nd option due to the mix of in-person and video.

Helms: Option 2 - The school and/or the supervisor may utilize their discretion to incorporate a mix of in-person and telehealth experience. Should the term "face-to-face" (in regard to the 150-requirement) be deleted?

After some discussion, the Committee suggested removing the term "face-to-face."

Helms: Summarized new language - A minimum of 150 hours of experience counseling individuals, couples, families, or groups. The school and/or the supervisor may utilize their discretion to incorporate a mix of in-person and telehealth experience.

MOTION: Recommend that staff pursue an amendment to sections 4980.36, 4980.78 4999.33, and 4999.62 to generally read “A minimum of *(insert number)* hours of experience counseling individuals, couples, families, or groups. The school and/or the supervisor may utilize their discretion to incorporate a mix of in-person and telehealth experience.

Friedman moved; Jones seconded. Vote: 3 yea, 0 nay. Motion carried.

Roll call vote:

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

Discussion and Public Comment on Attachment C

ASWs are required by law to obtain at least 750 hours in “face-to-face” individual or group psychotherapy hours in the context of clinical social work services. Should these hours be clarified to be in-person, via telehealth, or a combination?

Staff believes the intent 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 confusion. Staff does not believe the intent of the law was to distinguish whether these hours are gained in-person or via telehealth. Given that associates are already permitted to perform services via telehealth and allowance of telehealth hours is at the discretion of the supervisor, staff recommends striking the term “face-to-face” in this sentence.

Wong: Suggested making the language consistent with the other license types by deleting “face-to-face” and add “in-person and/or telehealth experience.”

Helms: Needs some time to work on the language.

Attachment C was tabled.

VIII. Discussion and Possible Recommendation of Amendments Regarding Supervision via Videoconferencing (BPC §§4980.43.2, 4996.23.1, 4999.46.2)

This is a continuation of the discussion that began at the Committee’s March 2021 meeting.

Supervision via Videoconferencing

Current law only permits associates to be supervised via videoconferencing if they are working in an exempt setting.

In addition, the law only explicitly permits associates working in an exempt setting to obtain supervision via videoconferencing. The Board is currently pursuing an amendment, via its setting definition bill (AB 690), that would change the law to instead permit supervisees working in an exempt setting to obtain supervision via videoconferencing. This would clarify that trainees in exempt settings can also receive supervision via videoconference.

The COVID-19 state of emergency has raised questions about whether further change to the law is warranted. Due to the stay-at-home order, therapy has shifted from in-person to telehealth, and it remains to be seen to what degree this will continue after the emergency has passed. In the interest of public health, the director of the Department of Consumer Affairs (DCA) issued a law waiver that currently allows supervision to be via videoconference, regardless of the setting. However, that waiver will expire once it is safe for in-person activities to resume.

Should supervision via videoconferencing continue to be allowed only in exempt settings or if it should be permitted to some degree in other setting types? Should trainees in exempt settings be subject to any limits to the amount of supervision via videoconferencing they can obtain?

Clarification of “Face-to-Face Contact” in Supervision

Staff suggested clarifying the references in law to “face-to-face contact” when defining direct supervisor contact.

Proposed Language

The proposal clarifies the meaning of “face-to-face contact” in the context of direct supervisor contact. It also proposes allowing, but limiting, the amount of supervision via videoconferencing in non-exempt settings.

Helms: Allowing supervision via videoconferencing has implications for allowing out-of-state practice. Currently, the video conferencing prohibition in non-exempt settings ensures an associate is not working entirely remotely. The public protection implications of this should be a consideration in any subsequent decision.

Discussion and Public Comment

Wong: Proposed that video conference applies to all settings. Proposed half of supervision hours in-person and half via teleconferencing, on a monthly basis.

Jones: Agrees on balancing supervision between in-person and video supervision.

Sodergren: When looking at consumer protection, we don't know if only allowing face-to-face is protecting the consumer. 50-50 is a good split. Doesn't want to create barriers because there is a need for more supervisors. Putting a time-based requirement is difficult for staff to evaluate, and it puts a burden on the supervisor and unsure what value it adds.

Wong: Changed original proposal. Proposed 50-50 split for supervision.

MOTION: Draft amendments to allow video conference supervision across all settings and allow for 50-50 split of in-person supervision and video conference supervision.

Wong moved; Jones seconded.

Public Comment

Caldwell: Agrees with Zerehi. This would be a significant new restriction for non-profits and other exempt settings that have been providing supervision via video conference prior to the pandemic. This needs more time to consider impacts involved.

Several comments were made speaking against the 50-50 split of in-person supervision and video conference supervision language. Commenters requested that discretion be left to the supervisors, allowing for flexibility. Commenters also noted that there is a shortage of supervisors, and this creates barriers to hiring supervisors.

Several commenters spoke against the restriction on exempt settings.

A commenter stated that this would limit access to provide care to rural areas.

A commenter requested that the Committee consider accommodations for clinicians and supervisors with disabilities that prevent them from being able to do in-person supervision.

Alley: The survey responses would be helpful in deliberating this issue. There's been a difference in rules and requirements for different settings because they are different.

Jones: The Committee needs more information and suggested getting data before making any changes.

This item was tabled for a future meeting.

IX. Discussion and Possible Action on Survey Questions for School Programs, Supervisors, and Trainees: Use of Telehealth and Supervision via Videoconferencing

This item was tabled for a future meeting.

X. Public Comment for Items Not on the Agenda

Written comment received by BBS from Brooklynn Kendall: Requested a permanent change to allow trainees and associates to see clients and receive supervision via telehealth.

Zerehi: Supervision via telehealth waiver is extending. What will the Board do about that?

Melissa Tihin: If we allow telehealth 100% in all settings, could we limit the number of associates or trainees if they are accessing telehealth services for supervision? Perhaps not allow triadic supervision if they're receiving supervision via telehealth; perhaps only allow 1 on 1. Perhaps lower the groups to 4 instead of 8.

XI. Suggestions for Future Agenda Items

None

XII. Adjournment

The Committee adjourned at 12:54 p.m.