



Board of Behavioral Sciences



1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830
www.bbs.ca.gov

Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

TELEHEALTH COMMITTEE MINUTES

This committee meeting was webcasted. A record of the webcast is available on the following link: <https://www.youtube.com/watch?v=tovngPV9LLc>

DATE March 16, 2023

MEETING PLATFORM WebEx Video/Phone Conference

TIME 9:00 a.m.

ATTENDEES

Members Present: Christopher (Chris) Jones, Chair, LEP Member
Susan Friedman, Public Member
Kelly Ranasinghe, Public Member

Members Absent: *All members present*

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

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

I. Call to Order and Establishment of Quorum

Chris Jones, 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, Board staff, and remote public attendees introduced themselves.

III. Consent Calendar: Discussion and Possible Approval of December 8, 2022 Committee Meeting Minutes

Motion: Approve the December 8, 2022 Committee Meeting Minutes.

M/S: Friedman/Ranasinghe

Public Comment: None

Motion carried. Support: 3 Oppose: 0 Abstain: 0

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

IV. Overview of the Committee’s Roles and Tasks

The Committee members and stakeholders have discussed the following:

- Future topic areas for Committee discussion.
- The Board’s existing statutes and regulations related to telehealth.
- Laws of several other states that pertain to temporary practice across state lines. A temporary practice allowance will run as legislation this year as AB 232.
- Telehealth coursework requirement, which was signed into law via AB 1759.
- Clarification of telehealth laws for associates and trainees, which was signed into law via AB 1759.
- Allow supervision via videoconferencing in all settings, which was signed into law via AB 1758.
- Discussion of online-only therapy platforms and other alternative modes of therapy. Discussion will continue.
- Development of a telehealth best practices document. Discussion will continue.

V. Discussion and Possible Recommendation Regarding Online-Only Therapy Platforms and Other Alternative Modes of Therapy

Discussion continued regarding whether online-only therapy platforms and alternative methods of therapy pose any new public protection concerns. At its December 2022 meeting, the Committee directed staff to:

1. Obtain feedback from therapists who have worked for online-only therapy platform.

Staff prepared a draft survey for therapists who have worked for or contracted with an online-only therapy platform and shared the survey with stakeholders for feedback. The proposed survey was presented.

2. Discuss potential oversight concerns about these companies with the Legislature.

Staff met with representatives from the Legislature's Senate and Assembly Business and Professions Committees. Staff shared Board members' concerns related to online-only therapy platforms.

Committee Discussion

The Committee liked the survey and feels it hits all the points they wanted to address.

Public Comment

Ben Caldwell: There has been news regarding these companies reaching settlements with the FTC about handling consumer data and their privacy practices, allowing them to share consumers' mental health care information with other companies that are paying for that data. Is there any concern about potential liability for clinicians in that type of data sharing, or is this the relationship between the consumer and the app?

Cathy Atkins, CAMFT: CAMFT had comments/questions regarding the following:

- W-2 versus 1099 and working as independent contractors
- Training or advise on jurisdiction laws
- Question 21 is confusing.

Rebecca Gonzalez, NASW-CA: Concerned about the 1099 question and that people may not answer honestly because they may be working as an independent contractor, which may not be legal.

Committee/Staff Discussion

Helms: Will reach out to Cathy Atkins to draft questions regarding the comments provided and to Ben Caldwell to draft question regarding data sharing.

Motion: Direct staff to update the questions as discussed and to reach out to the stakeholders to include additional questions and proceed with implementing the survey to the licensee population.

M/S: Jones/Ranasinghe

Public Comment: None

Motion carried. Support: 3 Oppose: 0 Abstain: 0

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

VI. Discussion and Possible Recommendation Regarding Business and Professions Code Sections 4980.31, 4980.44, 4989.48, 4996.7, and 4999.70, and California Code of Regulations Title 16, Sections 1811 and 1815.5: Required Display of License or Registration

At its December 2022 meeting, the Telehealth Committee directed staff to draft language requiring the license or registration number and expiration date be provided to the client, either verbally or written, each time services are provided.

Two options were presented that reflects this requirement.

Staff also noted that if the Committee selects either of the option proposed, the statute change will override a portion of the telehealth regulations (16 CCR §1815.5(c)(3)), which only requires that the license or registration number be provided upon initiation of telehealth services. Therefore, cleanup to §1815.5 of the regulations will be necessary if a statute change moves forward.

Additional Amendment: Staff recommends deletion of BPC §4996.8, which requires that the current renewal receipt also be displayed near the license. This requirement is unnecessary since the license expiration date is indicated on the license.

Committee/Staff Discussion

The Committee preferred Option 1.

Helms suggested adding the word “current” to the following language:

A licensee or registrant shall provide a client with their current license or registration number, the type of license or registration, and the license or registration number’s expiration

Public Comment

Caldwell: Either of the two options have the same effect but prefers Option 1 because it provides a consistent standard that is easy to understand.

Atkins, CAMFT: CAMFT prefers Option 1, but there are no concerns either way.

Motion: Direct staff to make any discussed changes and any non-substantive changes to Option 1, to make a change to subdivision (a) adding the word “current” to the language, to draft the language for each practice act, and bring to the Policy and Advocacy Committee for consideration.

M/S: Jones/Friedman

Public Comment: None

Motion carried. Support: 3 Oppose: 0 Abstain: 0

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

VII. Discussion and Possible Recommendation Regarding Telehealth Best Practices Guidance Document

At the December 2022 meeting, the discussion regarding the development of a telehealth best practice document centered around the concept of creating two separate documents: one document focusing on the use of videoconferencing for supervision and another focusing on the general use of telehealth when delivering mental health services.

Board staff have developed three separate guidance documents designed to assist licensees, their employers, and consumers in making decisions when utilizing or providing telehealth. The considerations presented in these documents are based upon the Standards for Practice of Telehealth established in the California Code of Regulations. Additionally, these

documents include links to Board publications and pertinent resources from the various organizations.

The intent is to publish the guidance documents on the Frequently Asked Questions and Telehealth pages of the Board's website.

Committee/Staff Discussion

Jones: Asked if the Board could require therapists that are using telehealth to add links on their websites that direct consumers to these documents.

Sodergren responded that this would require regulations.

Friedman: Asked how this would be communicated. Releasing it with just the FAQ is not sufficient. This should be required reading.

Sodergren responded that the Board cannot require licensees to read publications.

Ranasinghe: Attachment C designed for consumers, first two bullet points – should say “must” not “will” and “should” or “must” the document should be sent to various organizations, such as NAMI, peer groups, Mental Health America, Disability Resources California.

Public Comment

Caldwell: Praised the direction of the documents. Two issues: 1) AAMFT has a link to its best practices documents to include. (2) Attachment C states that “Providers that offer telehealth therapy in California much hold one of the following California licenses.” Suggested saying “licenses or registrations”. Added that it would be helpful to bring clarity to the regulation that states providers need to follow best practices in the telehealth process.

Kristin V.: Requested a link on the Board's website that would direct therapists to telehealth information.

Atkins, CAMFT: Offered some ideas for consideration. 1) Attachment A: If 232 passes, consider utilizing some of that language. 2) Attachment B: It may be worth defining videoconferencing. 3) It may be helpful to have language regarding utilizing industry best practices, being familiar with California and HIPAA laws. 4) Attachment C: Defining telehealth for the consumer. 5) Highlight trainees or pre-graduates.

Motion: Direct staff to make any discussed changes and any non-substantive changes and proceed with finalizing the guidance documents for publication and posting.

M/S: Jones/Friedman

Public Comment

Michael Levy: Questioned the appropriateness for the Board to publish a best practice document.

Motion carried. Support: 3 Oppose: 0 Abstain: 0

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

VIII. Suggestions for Future Agenda Items

Friedman: Discuss Chatbot or AI.

Elijah Hooks: A discussion regarding out-of-state AMFT applicants that are also military spouses, reconsideration of section 4980.78(1)(b), and to add an exception regarding military spouses.

Shannon Swartley: The Social Work Licensure Compact, which is now available to review and adopt.

Michael Levy: Use of text to provide psychotherapy services.

Isa Ribadu: The role of academic institutions in preparing for the future and growth of telehealth.

Gerry Grossman: National licenses

Michael Levy: Discussion addressing when a person is considered a California resident and clarification of laws regarding legal residence versus current location when it comes to being defined as a California consumer and being under the protection of the Board.

IX. Public Comment for Items not on the Agenda

Gerry Grossman: Is there a timeline predicted for the release of the survey?

Jenn: The need for supervising via telehealth is crucial in rural communities.

X. Adjournment

The Committee adjourned at 10:48 a.m.