



Board of Behavioral Sciences

Memo

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To: Committee Members

Date: June 15, 2021

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Subject: Overview of Telehealth Committee's Roles and Tasks

The Telehealth Committee held its first meeting on January 22, 2021. 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.

So far, the Committee members and stakeholders have discussed the following:

- Future topic areas that the Committee should focus on. (Shown in **Attachment A**)
- The Board's existing statutes and regulations related to telehealth. (Proposed changes agreed to so far shown in **Attachment B.**)
- Laws of several other states that pertain to temporary practice across state lines.
- Potential clarification of telehealth laws for associates and trainees. (This discussion to be continued today.)
- Supervision via videoconferencing. (This discussion to be continued today.)

The following attachments from the last meeting are included so that they may be used as a reference for this meeting:

Attachment A: Issues Identified for Discussion at Future Telehealth Committee Meetings

Attachment B: Current Board Telehealth Regulations with Proposed Changes
California Code of Regulations (CCR) Title 16, §1815.5)

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ATTACHMENT A
Issues Identified for Discussion at Future Telehealth Committee Meetings

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. Discussion of 5150 applications – including WIC 5585 re: children – need guidance from BBS on that (from cmte - from LA County Dept. of Mental Health -1/22/21 meeting.)

14. Telehealth requirements – need license display in background? (from cmte. 1/22/21)
15. Consideration of mandated telehealth training for licensees, and what constitutes scope of competence for telehealth. (from cmte. 1/22/21)

ATTACHMENT B
Current Telehealth Regulations With Amendments Proposed By Telehealth
Committee
California Code of Regulations (CCR) Title 16, Division 18

§ 1815.5. STANDARDS OF PRACTICE FOR TELEHEALTH.

- (a) All persons engaging in the practice of marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling via telehealth, as defined in Section 2290.5 of the Code, with a client who is physically located in this State must have a valid and current license or registration issued by the Board.
- (b) All psychotherapy services offered by board licensees and registrants via telehealth fall within the jurisdiction of the board just as traditional face-to-face services do. Therefore, all psychotherapy services offered via telehealth are subject to the board's statutes and regulations.
- (c) Upon initiation of telehealth services, a licensee or registrant shall do the following:
 - (1) Obtain informed consent from the client consistent with Section 2290.5 of the Code.
 - (2) Inform the client of the potential risks and limitations of receiving treatment via telehealth.
 - (3) Provide the client with his or her license or registration number and the type of license or registration.
 - (4) Document reasonable efforts made to ascertain the contact information of relevant resources, including emergency services, in the patient's geographic area.
- (d) Each time a licensee or registrant provides services via telehealth, he or she shall do the following:
 - (1) Verbally obtain from the client and document the client's full name and address of present location, at the beginning of each telehealth session.
 - (2) Assess whether the client is appropriate for telehealth, including, but not limited to, consideration of the client's psychosocial situation.
 - (3) Utilize industry best practices for telehealth to ensure both client confidentiality and the security of the communication medium.
- ~~(e) A licensee or registrant of this state may provide telehealth services to clients located in another jurisdiction only if the California licensee or registrant meets the requirements to lawfully provide services in that jurisdiction, and delivery of services~~

~~via telehealth is allowed by that jurisdiction.~~

~~(f)~~(e) Failure to comply with these provisions shall be considered unprofessional conduct.

(f) A licensee or registrant of this state may provide telehealth services to clients located in another jurisdiction only if the California licensee or registrant meets the requirements to lawfully provide services in that jurisdiction, and delivery of services via telehealth is allowed by that jurisdiction.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code.
Reference: Sections 2290.5, 4980, 4989.50, 4996, 4999.30, and 4999.82, Business and Professions Code.