



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

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

2
3 Chris Jones, Chair of the Telehealth Committee (Committee) called the
4 meeting to order at 9:00 a.m. Roll was called, and a quorum was established.
5

6 **II. Introductions**

7
8 Committee members, Board staff, and remote public attendees introduced
9 themselves.
10

11 **III. Consent Calendar: Discussion and Possible Approval of December 8,**
12 **2022 Committee Meeting Minutes**

13
14 Motion: Approve the December 8, 2022 Committee Meeting Minutes.

15
16 M/S: Friedman/Ranasinghe

17
18 Public Comment: None

19
20 Motion carried. Support: 3 Oppose: 0 Abstain: 0
21

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

22
23 **IV. Overview of the Committee's Roles and Tasks**

24
25 The Committee members and stakeholders have discussed the following:
26

- 27
- 28 • Future topic areas for Committee discussion.
 - 29 • The Board's existing statutes and regulations related to telehealth.
 - 30 • Laws of several other states that pertain to temporary practice across state
31 lines. A temporary practice allowance will run as legislation this year as AB
32 232.
 - 33 • Telehealth coursework requirement, which was signed into law via AB 1759.
 - 34 • Clarification of telehealth laws for associates and trainees, which was
35 signed into law via AB 1759.
 - 36 • Allow supervision via videoconferencing in all settings, which was signed
37 into law via AB 1758.
 - 38 • Discussion of online-only therapy platforms and other alternative modes of
39 therapy. Discussion will continue.
 - 40 • Development of a telehealth best practices document. Discussion will
continue.

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

3
4 Discussion continued regarding whether online-only therapy platforms and
5 alternative methods of therapy pose any new public protection concerns. At its
6 December 2022 meeting, the Committee directed staff to:

- 7
8 1. Obtain feedback from therapists who have worked for online-only therapy
9 platform.

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

- 13
14 2. Discuss potential oversight concerns about these companies with the
15 Legislature.

16 Staff met with representatives from the Legislature's Senate and Assembly
17 Business and Professions Committees. Staff shared Board members'
18 concerns related to online-only therapy platforms.
19

20 Committee Discussion

21 The Committee liked the survey and feels it hits all the points they wanted to
22 address.
23

24 Public Comment

25 Ben Caldwell: There has been news regarding these companies reaching
26 settlements with the FTC about handling consumer data and their privacy
27 practices, allowing them to share consumers' mental health care information
28 with other companies that are paying for that data. Is there any concern about
29 potential liability for clinicians in that type of data sharing, or is this the
30 relationship between the consumer and the app?
31

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

- 34
 - W-2 versus 1099 and working as independent contractors
 - Training or advise on jurisdiction laws
 - Question 21 is confusing.
37

38 Rebecca Gonzalez, NASW-CA: Concerned about the 1099 question and that
39 people may not answer honestly because they may be working as an
40 independent contractor, which may not be legal.
41

1 Committee/Staff Discussion

2 Helms: Will reach out to Cathy Atkins to draft questions regarding the
3 comments provided and to Ben Caldwell to draft question regarding data
4 sharing.
5

6 Motion: Direct staff to update the questions as discussed and to reach out to
7 the stakeholders to include additional questions and proceed with implementing
8 the survey to the licensee population.
9

10 M/S: Jones/Ranasinghe
11

12 Public Comment: None
13

14 Motion carried. Support: 3 Oppose: 0 Abstain: 0
15

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

16
17
18 **VI. Discussion and Possible Recommendation Regarding Business and**
19 **Professions Code Sections 4980.31, 4980.44, 4989.48, 4996.7, and**
20 **4999.70, and California Code of Regulations Title 16, Sections 1811 and**
21 **1815.5: Required Display of License or Registration**
22

23 At its December 2022 meeting, the Telehealth Committee directed staff to draft
24 language requiring the license or registration number and expiration date be
25 provided to the client, either verbally or written, each time services are
26 provided.
27

28 Two options were presented that reflects this requirement.
29

30 Staff also noted that if the Committee selects either of the option proposed, the
31 statute change will override a portion of the telehealth regulations (16 CCR
32 §1815.5(c)(3)), which only requires that the license or registration number be
33 provided upon initiation of telehealth services. Therefore, cleanup to §1815.5
34 of the regulations will be necessary if a statute change moves forward.
35

36 Additional Amendment: Staff recommends deletion of BPC §4996.8, which
37 requires that the current renewal receipt also be displayed near the license.
38 This requirement is unnecessary since the license expiration date is indicated
39 on the license.
40

1 Committee/Staff Discussion

2 The Committee preferred Option 1.

3
4 Helms suggested adding the word “current” to the following language:

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

8
9 Public Comment

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

12
13 Atkins, CAMFT: CAMFT prefers Option 1, but there are no concerns either way.

14
15 Motion: Direct staff to make any discussed changes and any non-substantive
16 changes to Option 1, to make a change to subdivision (a) adding the word
17 “current” to the language, to draft the language for each practice act, and bring
18 to the Policy and Advocacy Committee for consideration.

19
20 M/S: Jones/Friedman

21
22 Public Comment: None

23
24 Motion carried. Support: 3 Oppose: 0 Abstain: 0

25

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

26
27
28 **VII. Discussion and Possible Recommendation Regarding Telehealth Best**
29 **Practices Guidance Document**

30
31 At the December 2022 meeting, the discussion regarding the development of a
32 telehealth best practice document centered around the concept of creating two
33 separate documents: one document focusing on the use of videoconferencing
34 for supervision and another focusing on the general use of telehealth when
35 delivering mental health services.

36
37 Board staff have developed three separate guidance documents designed to
38 assist licensees, their employers, and consumers in making decisions when
39 utilizing or providing telehealth. The considerations presented in these
40 documents are based upon the Standards for Practice of Telehealth
41 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

1 Public Comment

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

4
5 Motion carried. Support: 3 Oppose: 0 Abstain: 0
6

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

7
8
9 **VIII. Suggestions for Future Agenda Items**

10
11 Friedman: Discuss Chatbot or AI.

12
13 Elijah Hooks: A discussion regarding out-of-state AMFT applicants that are
14 also military spouses, reconsideration of section 4980.78(1)(b), and to add an
15 exception regarding military spouses.

16
17 Shannon Swartley: The Social Work Licensure Compact, which is now
18 available to review and adopt.

19
20 Michael Levy: Use of text to provide psychotherapy services.

21
22 Isa Ribadu: The role of academic institutions in preparing for the future and
23 growth of telehealth.

24
25 Gerry Grossman: National licenses

26
27 Michael Levy: Discussion addressing when a person is considered a California
28 resident and clarification of laws regarding legal residence versus current
29 location when it comes to being defined as a California consumer and being
30 under the protection of the Board.

31
32 **IX. Public Comment for Items not on the Agenda**

33
34 Gerry Grossman: Is there a timeline predicted for the release of the survey?

35
36 Jenn: The need for supervising via telehealth is crucial in rural communities.

37
38 **X. Adjournment**

39
40 The Committee adjourned at 10:48 a.m.