



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://www.youtube.com/watch?v=YpMM0GjLpYE>

DATE March 4, 2022

MEETING PLATFORM WebEx Video/Phone Conference

TIME 9:00 a.m.

ATTENDEES

Members Present: Christopher (Chris) Jones, Chair, LEP Member
Dr. Diana Herweck, LPCC Member

Members Absent: Susan Friedman, Public Member

Staff Present: Steve Sodergren, Executive Officer
Marlon McManus, Assistant Executive Officer
Rosanne Helms, Legislative Manager
Christy Berger, Regulatory Analyst
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

Chris Jones, Chair of the Telehealth Committee (Committee) called the meeting to order at 9:01 a.m. Roll was called, and a quorum was established.

II. Introductions

Committee members introduced themselves: Chris Jones, LEP Member and Committee Chairperson; Dr. Diana Herweck, LPCC Member.

III. Consent Calendar

- a. Discussion and Possible Approval of October 1, 2021 Committee Meeting Minutes
- b. Discussion and Possible Approval of January 28, 2022 Committee Meeting Minutes

Motion: Approve the October 1, 2021 and January 28, 2022 Committee Meeting Minutes.

M/S: Herweck/Jones

Public Comment: None

Motion carried Support: 2 Oppose: 0 Abstain: 0 Not present: 1

Board Member	Vote
Friedman	Not present
Herweck	Yes
Jones	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.
- Potential telehealth coursework requirement.
- Potential clarification of telehealth laws for associates and trainees.
- Supervision via videoconferencing.
- Appropriate telehealth settings and potential guidance document.

V. Discussion Regarding Telehealth Best Practice Guidance Document

To assist employers and supervisors in making decisions regarding a pre-licensure's use of telehealth and tele-supervision, staff drafted a guidance document that would clarify telehealth expectations of employees.

The guidance document will address the following topics and will highlight considerations that an employer/supervisor should take when:

- Assessing whether a setting is appropriate for the pre-licensure.
- Assessing whether a pre-licensure's employment status is appropriate.
- Assessing whether telehealth is appropriate for a pre-licensure, including which modes of telehealth are appropriate.
- Assessing whether tele-supervision is appropriate for a pre-licensure.
- Establishing consent forms in regard to telehealth.
- Assuring the security and confidentiality of client communications.
- Ensuring a remote-working employee is provided with the necessary equipment and supplies.

Discussion

The Committee likes where this document is going and noted that it is a living document. Herweck noted that "pre-licensure" should be defined.

Public Comment

Ben Caldwell: 1) American Telemedicine Association has a best practice document related to video-based mental health care. 2) Who is this document for: supervisors who are supervising people doing telehealth; supervisors doing telehealth; or registered associates, trainees or interns doing telehealth? 3) Asked if the Board intends to further specify the intent of California Code of Regulations §1815.5(d)(3) or if these are broader points for consideration.

Jennifer Alley, California Association of Marriage and Family Therapists (CAMFT): 1) Asked if the document is for supervisors or pre-licenseses, and if there may be two separate documents. 2) Has more specific questions regarding protections for pre-licenseses and noted that the document should be very clear regarding the guidance and expectations.

VI. Discussion and Possible Recommendation Regarding Telehealth Clarifications in Statute and Regulations (California Code of Regulation Title 16, §1815.5; Business and Professions Codes §§4980.36 and 4999.33)

Staff examined two possible clarifications to statute and regulations:

1. Clarification of the “face-to-face” practicum requirement in statute for marriage and family therapist (MFT) and professional clinical counselor (PCC) trainees in Business and Professions Code (BPC) §§4980.36 and 4999.33.
2. Amendments to clarify that the Board’s telehealth regulations (California Code of Regulations Title 16, (16 CCR), §1815.5) include MFT trainees, social work interns, and PCC trainees.

Item #1 - Practicum Clarification: “Face-to-Face” Requirement

At the last Committee meeting, it was suggested that an amendment could be made to clarify that “face-to-face” practicum may include experience hours counseling via videoconferencing.

Stakeholders suggested that the Committee consider whether practicum might be an appropriate place to require some in-person counseling experience hours.

Item #2 – Telehealth Regulation §1815.5 – Inclusion of Trainees and Interns

Regulation §1815.5 specifically states that a valid and current Board license or registration is needed to provide services to clients located in California via telehealth and specifically refers to licensees or registrants only. MFT trainees, PCC trainees, and social work interns are not mentioned in this section.

It may be appropriate to exclude trainees and interns from this section since they are not under the jurisdiction of the Board.

Committee Discussion

Herweck: 1) Noted that perhaps the number of hours does not need to be limited; but if it is limited, then there should be considerations for accessibility. 2) Point to consider: California schools that have students outside of California and those students cannot provide telehealth in California because they are out-of-state or vice versa.

Jones: Noted that there should be clarification about what “face-to-face” is and what it entails. Still finds value in “in-person” therapy and supervision.

Herweck: It is important that there is some face-to-face contact, even if its over video, and would like to move forward with that, but clarify where text messaging fits in.

Helms: Propose “face-to-face” in the practicum requirement and requested clarification regarding whether that means in-person or video conferencing. Also

noted that language could be added recommending supervisors to follow the Board's telehealth regulation in §1815.5.

Herweck: 1) Noted another point to address: What happens when there are technological problems or if the client states that they prefer to not be on camera. 2) It must be clear that face-to-face must be video conferencing or in-person.

Public Comment

Michelle Crawford-Morrison: Noted that there is an assumption that guidelines and education on how to shift from in-person to telehealth are needed. However, for individuals who have done their education and their training all in telehealth, do they need to have additional training to see clients in-person? A discussion with trainees is necessary to find out how successful they've been in going from telehealth to in-person.

Alley, CAMFT: If the current face-to-face requirement in statute changed to video, then there would be no requirement for in-person training, which is concerning. If a trainee is utilizing telehealth services, where will that be originating? With the trainee currently in school and doing this from their home, would that be considered a private practice, and where would the supervisor be?

B. Caldwell: 1) Suggested using "real time, two-way video conferencing" to clarify face-to-face. This would also address concerns regarding text messaging. 2) In regard to the question about gaining all practicum experience via telehealth, suggested not to insert an arbitrary number of hours, but allow that the practicum be a combination of in-person or telehealth experience.

Rebecca Gonzales, National Association of Social Workers, California Chapter (NASW-CA): Commenting on Item 2, noted that the wording is only clarifying what is already in place and not dictating social work education. Furthermore, this is only in regulation, not statute. Therefore, NASW-CA is ok with this suggestion.

Miranda Furie: 1) Noted client accessibility and stated that not all clients have technology to do video or the ability or comfort to be in-person. 2) Emphasized that text messaging is a potential confidentiality breach.

DaLene Forester: 1) Echoed Furie's comments that not all clients have technology, and telephone therapy is helpful. 2) Agreed that text messaging is a concern.

Further Committee Discussion

Herweck: 1) A trainee using telehealth working from home is essentially private practice. 2) Video vs. phone - phone is similar to text messaging. More and more universities are following CACREP standards where students must either

be watched live during session, or they must record their session. Audio is not an allowance. In training, face-to-face is important. 3) Text messaging – the younger generation does not pick up a phone to talk with their voices. They use text messaging. If we're saying phone is ok, then texting should be ok.

Helms: Reminded the Committee and public that the discussion is not about taking the ability to away from a licensee or an associate. They can use whatever platform they want (as long as supervisor approves it). The discussion is about trainees. 2) Noted Caldwell's suggestion of combination of in-person and telehealth experience and not quantifying each by an arbitrary number. 3) Suggested not making changes to §1815.5 but strongly advising in LPCC and LMFT law to follow the regulations for standards of telehealth.

Jones: He is comfortable with Helms' suggestion. Not every model is going to fit every person. This allows for opportunity for quality training while focusing on consumer protection.

Motion: Draft language in the LMFT and LPCC statutes to define face-to-face as being a combination of in-person and real time, 2-way video conferencing, and add language advising that the telehealth regulations be followed.

M/S: Herweck/Jones

Public Comment

J. Alley, CAMFT: CAMFT has concerns and requested a sunset on this, allowing for reassessment later.

Discussion

Herweck: Agreed with Alley.

Helms: Recommended a placeholder for a sunset date and allow for the Board to discuss and approve the language and determine the sunset date.

Original motion was rescinded.

Motion: Draft language in the LMFT and LPCC statutes to define face-to-face as being a combination of in-person and real time, 2-way video conferencing, and add language advising that the telehealth regulations be followed, and add a placeholder for the sunset date to be determined at a later date.

M/S: Herweck/Jones

Public Comment

J. Alley, CAMFT: Thanked the Committee for adding the sunset.

Motion carried Support: 2 Oppose: 0 Abstain: 0 Not Present: 1

Board Member	Vote
Friedman	Not present
Herweck	Yes
Jones	Yes

VII. Suggestions for Future Agenda Items

Herweck: Out-of-state students who want to provide services via telehealth in California with a California licensed supervisor, or California students who want to provide services out of state with a supervisor from that state but following California laws.

VIII. Public Comment for Items not on the Agenda

None

IX. Adjournment

The Committee adjourned at 10:21 a.m.