

## TELEHEALTH COMMITTEE MINUTES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

This committee meeting was webcasted. A record of the webcast is available at the following link: <https://youtu.be/mfNfkZvsxJc>

**DATE** December 15, 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 **1. Call to Order and Establishment of Quorum**

2  
3 Christopher 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 **2. Introductions**

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

10  
11 **3. Consent Calendar: Discussion and Possible Approval of June 8, 2023**  
12 **Committee Meeting Minutes**

13  
14 Motion: Approve the June 8, 2023 Committee Meeting Minutes.

15  
16 M/S: Friedman/Ranasinghe

17  
18 Public Comment: None

19  
20 Motion carried. Support: 3 Oppose: 0

21

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

22  
23 **4. 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 discussion
  - 29 • The Board's existing statutes and regulations related to telehealth.
  - 30 • Baseline telehealth coursework requirement
  - 31 • Clarification of telehealth laws for associates and trainees
  - 32 • Laws of several other states that pertain to temporary practice across state lines.
  - 33 • Development of a telehealth best practices document
  - 34 • Discussion of interstate compacts
  - 35 • Discussion of online-only therapy platforms and other alternative modes of
  - 36 therapy.
- 37

38 This Committee has concluded its work. Future issues related to telehealth will  
39 be addressed by the Policy & Advocacy Committee.  
40

1 **5. Discussion Regarding Online-Only Therapy Platforms**

2  
3 The Committee discussed use of online-only therapy platforms and alternative  
4 methods of therapy, and whether these methods pose any new public protection  
5 concerns.  
6

7 A survey was administered to licensees and registrants who have had  
8 experience working for an online-only therapy platform. The survey was open  
9 from April 10 through May 15, 2023, and over 1,700 responses were received.  
10

11 Survey results were presented. Three areas of concern were:

- 12
- 13 1. Concern related to reporting from some therapists that an online-only therapy  
14 platform had matched them to clients in states where they were not licensed.  
15
  - 16 2. Concern related to how the custodian of record and informed consent  
17 agreements were managed.  
18
  - 19 3. Concern about lack of an emergency plan.  
20

21 **Committee Direction**

22  
23 After discussing the areas of concern, the Committee directed staff to take two  
24 actions in advance of its next meeting.  
25

- 26 1. Meet with Staff Members from the Senate and Assembly Business and  
27 Professions Committee  
28

29 Staff met with representatives from both the Senate and Assembly Business  
30 and Professions Committees. Staff provided them with the survey results,  
31 relayed the Board's areas of concern and discussed how the areas of  
32 concern relate to the Board's mandate.  
33

34 The representatives from the Senate and Assembly Business and  
35 Professions Committees indicated that they would report the information to  
36 their respective committee chairs and reach out with any further feedback and  
37 questions.  
38

- 39 2. Draft a Letter Providing Guidance to Online-Only Therapy Platforms  
40

41 A draft of the letter was provided.  
42

1 **6. Discussion and Possible Recommendation Regarding the Board’s Current**  
2 **Telehealth Laws (California Code of Regulations, Title 16, section 1815.5**  
3 **and Business and Professions Code section 2290.5)**  
4

5 The Board has received feedback that some provisions of the current telehealth  
6 regulations may need to be reconsidered or adjusted.  
7

8 1. Subdivisions 1815.5(e) and (f)  
9

10 Regulation §1815.5(e) states that a California licensee or registrant may only  
11 provide telehealth to a client in another jurisdiction if they meet the  
12 requirements to lawfully provide services in that jurisdiction, and if telehealth  
13 is allowed by that jurisdiction.  
14

15 Regulation §1815.5(f) states that failure to comply with any provisions of the  
16 Board’s telehealth regulations is unprofessional conduct.  
17

18 CAMFT raised a concern that making it unprofessional conduct if a therapist  
19 fails to check to make sure he or she is following the laws of the jurisdiction  
20 where the client is located is too rigid and could lead to unintended  
21 consequences. CAMFT suggests moving 1815.5(e) after 1815.5(f) so that it  
22 functions as guidance, rather than a requirement that one must follow to avoid  
23 discipline by the Board.  
24

25 The Board’s regulation counsel stated that moving the two subsections does  
26 not change the legality. Counsel also noted that each license type has a  
27 provision which states that it is unprofessional conduct to violate any of the  
28 board statutes and regulations.  
29

30 Recommendation: Strike subdivision (f)  
31

32 2. Replace the Term “Valid and Current License or Registration; Subdivision  
33 1815.5(a)  
34

35 Regulation states that a “valid and current” California license or registration is  
36 required to practice telehealth with a client located in California.  
37

38 Since it is unclear what a “valid and current” license/registration means, it  
39 may be more precise to make an amendment to require a “current and active”  
40 license or registration.  
41

42 Regulation counsel stated that “valid” is implied in the law to mean “current,  
43 active, and unrestricted.” If the Board has no concerns with restricted  
44 licenses, providing these services with a “current and active” license would  
45 meet the objective.  
46

1 Since it is not the Board’s intent to restrict a licensee/registrant that is on  
2 probation from practicing telehealth, the recommendation would be to amend  
3 “valid and current” to “current and active.”  
4

5 3. Disclosure of License and Registration Number  
6

7 At its last meeting in November 2023, the Board directed staff to pursue a  
8 legislative proposal that would require a licensee or registrant to provide a  
9 client with a notice prior to initiating psychotherapy services, or as soon a  
10 practically possible thereafter, and must include the licensee or registrant’s  
11 name, license or registration number, the type of license or registration, and  
12 the expiration date.  
13

14 If this legislative proposal become law, then adding the requirement to  
15 §1815.5 will be duplicative.  
16

17 Recommendation: No action. Wait for outcome on the current legislative  
18 proposal.  
19

20 4. Documentation of Emergency Services  
21

22 This Committee recently discussed the results of its online-only therapy  
23 platform survey. Forty percent (40%) of the survey respondents indicated  
24 that the online-only therapy platform that they worked for did not have a clear  
25 emergency plan in place.  
26

27 Subdivision (c)(4) of the Board’s telehealth regulations requires the therapist  
28 to “Document reasonable efforts made to ascertain the contact information of  
29 relevant resources, including emergency services, in the patient’s geographic  
30 area”, upon initiation of telehealth services.  
31

32 The Committee was asked if this requirement is sufficient or if modification is  
33 needed.  
34

35 Recommendation: No changes.  
36

37 5. Utilization of “Industry Best Practices”  
38

39 The current telehealth regulations (§1815.5(d)(3)) require that each time a  
40 therapist provides services via telehealth, they must “utilize industry best  
41 practices for telehealth to ensure both client confidentiality and the security of  
42 the communication medium.”  
43

44 Stakeholders have noted that the requirement to utilize “industry best  
45 practices” is a vague term that has led to confusion about exactly how this  
46 requirement is fulfilled.

1 Staff provided options to clarify this, referring to the Veterinary Medical  
2 Board's (VMB) bill pertaining to telehealth and the Board of Psychology's  
3 telehealth regulations.  
4

5 Regulation counsel feedback: Understands the vagueness issue; however, "it  
6 gives the Board flexibility to establish by expert testimony what those practices  
7 are."  
8

9 Recommendation by Ranasinghe: Use the VMB's language with the additional  
10 rider referring to complying with state and federal laws concerning confidentiality.  
11

12 Helms: Stated that she will work with regulatory counsel to use the VMB option  
13 and include the additional language to meet OAL's requirements.  
14

15 Public Comment

16 Ben Caldwell: Any change to the language will improve clarity and understanding.  
17

18 Motion: Direct staff to make the following changes and bring the proposal to the  
19 Policy and Advocacy Committee for consideration:

- 20 1. Strike §1815.5(e)
- 21 2. Replace "valid and current" with "current and active"
- 22 3. Watch and wait
- 23 4. No changes
- 24 5. Draft §1815.5(d) using the VMB model and reference state and federal  
25 health care laws.  
26

27 M/S: Friedman/Jones  
28

29 Public Comment: None  
30

31 Motion carried. Support: 3 Oppose: 0  
32

Board Member	Vote
Friedman	Yes
Jones	Yes
Ranasinghe	Yes

33  
34 **7. Suggestions for Future Agenda Items**  
35

36 Friedman: Artificial intelligence  
37

38 **8. Public Comment for Items not on the Agenda**  
39

40 None  
41

1 **9. Adjournment**

2

3 The Committee adjourned at 10:14 a.m.