

**TITLE 16 BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: The California Board of Psychology (Board) has not scheduled a hearing on the proposed changes. However, a hearing will be scheduled upon request by any interested party if the request is received no later than 15 days prior to the close of the written comment period.

Subject Matter of Proposed Regulations: Standards of Practice for Telehealth Services.

Section(s) Affected: Section 1396.8 of Article 8 of Division 13.1 of Title 16 of the California Code of Regulations (CCR)¹.

Background and Statement of the Problem:

The Board of Psychology (Board) licenses, regulates, and investigates complaints against psychologists and psychological associate registrants which are separate license categories in California, totaling approximately 21, 876 licensees. The Board is responsible for discipline and enforcement of Chapter 6.6 of Division 2 of the Business and Professions Code which regulates the profession. Business and Professions Code (BPC) Section 2920.1 mandates that the protection of the public shall be the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

In August 2021, the Board adopted its Standards of Practice for Telehealth Services, set forth in Title 16 CCR Section 1396.8. This regulation establishes the Board's oversight of licensed psychologists, registrants, psychology trainees, and supervised individuals who provide psychological services via telehealth under the Psychology Licensing Law.

Under CCR Section 1396.8, licensed psychologists, registrants, psychology trainees, and supervised individuals permitted to provide psychological health care services via telehealth must comply with the laws and regulations of both California and any jurisdiction where either the licensee or client is located, including when either party is temporarily out of state. The regulation establishes specific requirements for providing telehealth services, including holding a valid license, obtaining informed consent that addresses telehealth-specific risks, evaluating whether telehealth is clinically appropriate, ensuring provider and supervisee competency, safeguarding electronic data, and adhering to all applicable legal and professional standards.

¹ All CCR references are to title 16 unless otherwise noted.

In 2023, the Board conducted a Barriers to Telehealth Survey targeting licensees who provide telehealth services, as well as consumers. In response to the survey results, the Board reviewed the Health Insurance Portability and Accountability Act (HIPAA), Business Professions Code (the Code) 2290.5, and the telehealth requirements under CCR Section 1396.8 to evaluate whether current telehealth practices are in compliance with applicable laws. The Board determined amendments to CCR Section 1396.8 were necessary to ensure full compliance.

At its February 2025 Board meeting, the Board approved amendments to CCR Section 1396.8 to ensure compliance as well as update outdated language. Proposed changes include clarifying the Board's authority to regulate all psychological services provided by individuals under its jurisdiction, whether delivered in person or via telehealth. The amendments also seek to remove outdated language and provide clearer criteria for determining when telehealth is clinically appropriate. The amendments reinforce that all practitioners must comply with relevant federal laws and regulations in addition to the Psychology Licensing Law and all other applicable laws and standards of care in California and any other jurisdiction where the provider or client is located.

The Board has developed a proposal outlining these recommended updates to the Standards of Practice for Telehealth Services, with supporting rationale detailed below.

Anticipated benefits from this regulatory action:

The proposed amendments to CCR Section 1396.8 strengthen public protection by ensuring that telehealth services meet the same professional and ethical standards as in-person care, in line with the Board's mandate under BPC 2920.1. The amendments also clarify the Board's jurisdiction over all psychological services delivered via telehealth, including services provided across state lines or by supervised individuals, eliminating ambiguity and reinforcing regulatory oversight. By aligning with federal laws such as HIPAA, the changes improve legal clarity and reduce liability risks for practitioners.

The amendments underscore the importance of maintaining data privacy and security, requiring providers to protect client information and report any breaches. The amendments also support the appropriate use of supervised individuals and trainees in telehealth settings, providing clear expectations for supervision and competency while expanding access to care. The amendments remove outdated language and ensures the regulation reflects current telehealth technologies and practices. They also refine the criteria for determining when telehealth is clinically appropriate, helping ensure services are tailored to individual client needs and delivered ethically.

Collectively, these benefits promote ethical standards, compliance, and client-centered telehealth practices within the profession which will ultimately benefit the health and welfare of California residents.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

Amend Section 1396.8 of Article 8 of Division 13.1 of Title 16 of the CCR

Purpose: The purpose of this regulatory proposal is to amend CCR Section 1396.8 to update and clarify the Board’s regulation of psychological services via telehealth. The amendments seek to remove outdated language, align the regulation with current laws and technology, and provide clearer guidance for licensees, registrants, psychology trainees, and supervised individuals on legal compliance, clinical appropriateness, supervision, and data security.

- Adds the statement “All psychological services offered by Board licensees and registrants via telehealth fall within the jurisdiction of the Board just as traditional face-to-face services do.”
- Removes the terms “health care” throughout.
- Adds semicolon after the term “State” in subsection (1) and (2) of subdivision (a).
- Adds the term “or” in subsection (2) of subdivision (a).
- Removes the term “temporarily” in subsection (3) of subdivision (a).
- Adds the terms and comma “medical, and” to section (3)(A) of subdivision (c).
- Adds the terms “choice” and “to receive” and removes the statement “preference for receiving” to section (3)(B) of subdivision (c).
- Removes the statement “the availability of” and “the receipt of”.
- Adds the statement “a safe and private” and “client’s access to technological resources, and the client’s ability to use the chosen technology.” To subsection 3(D) of subdivision (c).
- Removes period and adds comma after the term “located” to subsection 6 of subdivision (c).
- Adds the statement “including all relevant Federal laws and regulations related to telehealth.” to subsection 4 of subdivision (c).

Rationale: The proposed amendments to CCR Section 1396.8 are necessary to ensure the regulation remains current, enforceable, and aligned with evolving standards of care, technological advancements, and the legal landscape surrounding telehealth. Since the adoption of the regulation in 2021, the use of telehealth has continued to expand, making it essential for the Board to clarify its authority to regulate all psychological services delivered via telehealth—regardless of the provider’s or client’s location. Clearer language is needed to affirm that services provided by licensed psychologists, registrants, psychology trainees, and supervised individuals are subject to the same oversight and ethical standards as in-person services.

Additionally, the 2023 Barriers to Telehealth Survey identified areas of confusion among licensees regarding informed consent, legal compliance, scope of supervision, and jurisdictional requirements. These amendments address those concerns by explicitly requiring compliance with relevant federal laws (such as HIPAA), the Psychology Licensing Law, and applicable laws in any jurisdiction where services are delivered. The regulation also needs to be updated to remove outdated language, incorporate clearer criteria for assessing the clinical appropriateness of telehealth, and better reflect the

responsibilities of supervisors overseeing trainees and supervised individuals in remote settings.

The proposed changes to Section 1396.8 clarify and streamline the regulatory standards governing telehealth services provided by Board licensees and registrants. The addition of the statement, “All psychological services offered by Board licensees and registrants via telehealth fall within the jurisdiction of the Board just as traditional face-to-face services do,” affirms that remote services are subject to the same oversight and consumer protection standards as in-person care. This provides regulatory clarity in light of the growing use of telehealth in psychological practice. Throughout the regulation, the term “health care” has been removed to more accurately reflect the Board’s jurisdiction, which is limited to psychological services, thereby improving consistency and legal precision.

Several formatting and grammatical changes were also made to enhance clarity and readability. Semicolons were added after the term “State” in subsections (1) and (2) of subdivision (a) to correctly separate independent clauses. Additionally, the word “or” was added to subsection (2) to distinguish it clearly as an alternative condition. The removal of the word “temporarily” from subsection (3) acknowledges the increasing trend of long-term or permanent remote work arrangements among licensees and clients, allowing for more flexibility while still upholding jurisdictional oversight.

In subdivision (c), further refinements were made to strengthen informed consent and the assessment of telehealth appropriateness. The inclusion of “medical” in subsection (3)(A) ensures that licensees consider a client’s full clinical background—including medical history—when determining if telehealth is suitable. In subsection (3)(B), the phrasing was revised to reflect that a client makes an informed “choice to receive” services via telehealth, rather than merely stating a “preference,” thus emphasizing client autonomy and alignment with ethical standards for consent. To streamline the language, phrases such as “the availability of” and “the receipt of” were removed without altering substantive meaning.

Subsection (3)(D) was expanded to include the requirement that licensees assess whether the client has “a safe and private” space for receiving services, as well as access to and ability to use the chosen telehealth technology. These additions reflect real-world barriers that may affect the quality and accessibility of remote care, especially for vulnerable populations. This phrase, “including all relevant Federal laws and regulations related to telehealth,” was added to ensure licensees remain compliant with federal statutes such as HIPAA.

The proposed amendments aim to strengthen public protection, reduce regulatory ambiguity for licensees, and ensure consistent application of standards across all psychological services, regardless of delivery method.

Underlying Data

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- **Board Meeting Agenda from February 27, 2025.**

- Board Meeting Item 14 Memo – Enforcement Committee Report and Attachments from February 27, 2025.
- Board Meeting Item 14 Attachment 1 – BPC 2290.5 from February 27, 2025.
- Board Meeting Item 14 Attachment 2 – Telehealth Regs – 16 CCR 1396.8 from February 27, 2025.
- Board Meeting Minutes from February 27, 2025.
- Sunset Report Section 11 – Attachment 2 – Telehealth Barriers Survey Questions

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Board currently regulates approximately 22,707 licensed psychologists and 1,834 psychological associate registrants, and 2,290 applicants who are in the process of meeting examination and licensure requirements. The proposed regulatory action only impacts licensed psychologist and psychological associate registrants who provide psychological services via telehealth in compliance with relevant federal laws and regulations in addition to the Psychology Licensing Law and all other applicable laws and standards of care in California and any other jurisdiction where the provider or client is located.

Economic Impact Assessment:

The Board has determined this regulatory proposal will have the following effects:

The proposed amendments to CCR Section 1396.8 will not create or eliminate jobs in the State of California because the changes are limited to clarifying and updating the Standards of Practice for Telehealth Services and do not specifically affect employment conditions. Any compliance-related costs—such as updating informed consent procedures, securing data transmission, or verifying legal obligations across jurisdictions—are expected to be minimal and aligned with existing telehealth practices. As such, the impact on job creation or elimination is considered insignificant.

The proposed regulatory action will not create new businesses or eliminate existing businesses in California because the amendments primarily clarify existing requirements and align telehealth regulations with current laws, technologies, and professional standards.

There will be no effect on the expansion of businesses operating in California because the proposal solely affects licensed psychologists and psychological associate registrants regulated by the Board who provide services via telehealth. Businesses operated by or employing such licensees will not specifically incur additional fiscal impacts, nor will their ability to expand be hindered.

This proposal benefits the health, safety, and welfare of California residents by enhancing regulatory clarity and ensuring consistent oversight of psychological services delivered via telehealth.

This regulatory proposal does not affect worker safety because it does not involve worker safety.

This regulatory proposal does not affect the state's environment because it does not involve the environment .

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1625 North Market Blvd., Suite N-215, Sacramento, CA 95834 during the written comment period, or at the hearing if one is scheduled or requested.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed, however, the Board welcomes comments from the public.