

Telehealth and Social Work in Florida during the Coronavirus Pandemic **3/20/2020**

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For many social workers navigating the challenges of the public health needs with the needs of clients and personal care can be difficult. Using technology can be a great asset that is being recommended by many including agencies, funders and insurances. This brief is designed to outline basic concepts that need to be addressed in the use of technology. This is in no way designed to be an all inclusive or in-depth document; rather, an outline to encourage practitioners to explore their own needs and resources as well as options for care. Additionally, it is recommended to stay up to date via <https://www.socialworkers.org/Practice/Infectious-Diseases/Coronavirus>.

When discussing the use of technology it is important to understand some basic terminology. Often telehealth and teletherapy are used interchangeably, both referring to any type of therapeutic communication with a client via a third party platform. Legally state definitions vary on use of language such as telehealth vs telemedicine, there is also telepsychiatry, teletherapy and telepractice.

In the state of Florida, Statute 456.47 definition notes:

“Telehealth” means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health related education; public health services; and health administration. The term does not include audio only telephone calls, e-mail messages, or facsimile transmissions.”

Take note of state specific restrictions. Many states specify the use of and limitations of “live” or “interactive” and state exclusion of store and forward or RPM. Additionally, many states have specific requirements such as necessary special licenses.

Concepts that are critical for consideration and are detailed more below include:

- A. Technological Equipment
- B. Technology platforms
- C. State and Federal Legal Mandates
- D. Confidentiality, Informed Consent and Other Ethical Considerations
- E. Assessment of risk and establishment of a process should a risk arise
- F. Billing and Payment Issues for private practice settings

A. Technological Equipment

You will need basic equipment of a computer which has a webcam as well as an audio source, this can be done via an internal microphone in your computer or an external microphone. You will also want to understand what equipment is needed for your client based on the specific platform you select. If you are using technology equipment that is recording, this must be consented by the client in writing and must be in compliance with all HIPAA and state regulations. Additionally, you should always be using a secure wifi service that requires a password for access.

B. Technology Platforms

The choice of which platform one uses for telehealth services should be determined within the context of state and federal laws. Sessions on platforms such as Skype, Zoom and Facetime are **not** HIPAA compliant. There is a paid version of some of these programs and you can check with them about the paid versions. One free site is <https://doxy.me>, and they have paid versions as well. Or there is telehealth in conjunction with their EMR system such as <https://theranest.com> or www.simplepractice.com. You can research options by price and recommendations here:

<https://www.capterra.com/telemedicine-software/>

Determining the correct platform will be dependent on the number of users, desire of functions, costs and more. With any platform you use you will want to ensure you have a signed Business Associate Agreement (BAA). You can understand more about the BAA and see a sample BAA here: <https://www.hhs.gov/hipaa/for-professionals/covered-entities/sample-business-associate-agreement-provisions/index.html>

As of March 19, 2020 the U.S. Department of Health & Human Services issued a “Notification of Enforcement Discretion for telehealth remote communications during the COVID-19 nationwide public health emergency” which does not stop HIPAA requirements but does not hold on enforcement of HIPAA. You can read more about this temporary status here:

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

C. State and Federal Legal Mandates

All therapy, including teletherapy, must still follow the state and federal regulations that oversee the practice. Teletherapy must follow regulations just as in an office setting. State regulations are dictated by the state licensing board. In Florida the 491 Board is the licensing board who dictates the regulations for telehealth.

Clinicians are mandated to follow the laws of where they are physically located as well as where the client is physically located. Should you or your client be in another state, you are then mandated to follow that state laws.

It is the clinician responsibility to ensure they understand the laws and regulations of where they are practicing. All states require you be licensed or regulated in some manner to provide care if you or the client is in that state. You can look up general information via: <https://www.cchpca.org/telehealth-policy/current-state-laws-and-reimbursement-policies>. However, it is recommended to check in directly with the state licensing board for more in-depth and up-to-date information.

Federal mandates include the importance of understanding the implications of privacy and security. Privacy and security are critical elements of ensuring HIPAA compliance. You can learn more here: <https://www.hhs.gov/hipaa/for-professionals/training/index.html>.

You can learn more about avoiding malpractice with telehealth here: <https://naswassurance.org/malpractice/malpractice-tips/treading-through-teletherapy-treatment-topics/>

As of March 19, 2020 the Florida 491 Board has also implemented new temporary regulations for registered interns. You can read these new regulations here:

<https://floridasmentalhealthprofessions.gov/latest-news/mental-health-by-telehealth/>

D. Confidentiality, Informed Consent and Other Ethical Considerations

All the ethical and legal practices of confidentiality that applies in an office setting applies to telehealth as well. Clinicians should be conscious of their physical space as well educating clients regarding the importance of confidentiality. Ensuring that the clinician and the client are in a confidential location is a conversation. Often there is a relaxed feeling to teletherapy that can create breaches in confidentiality. This can be especially challenging in complex cases such as when a client is using telehealth services while being in an abusive environment. All telehealth provisions should be outlined in an Informed Consent process which is signed by the client prior to starting telehealth services.

Clinicians have a responsibility to understand the implications of teletherapy including a process for technical difficulties and/or clinical complications. Such matters should be included in an Informed Consent process. Sample informed consents can be viewed by the below sites:

https://www.naadac.org/assets/2416/marlene_maheu_ac17ho2.pdf

<https://www.therathrive.com/about/forms/>

<https://personcenteredtech.com/wp-content/uploads/2020/03/Sample-Telemental-Health-Services-Informed-Consent.pdf>

Additionally, there are practitioners who specialize in creating necessary forms that can be purchased.

The NASW Code of Ethics and the NASW, ASWB, CSWE, and CSWA Standards for Technology in Social Work Practice provides a sound basis for understanding key ethical considerations that clinicians should follow.

<https://www.socialworkers.org/about/ethics/code-of-ethics/code-of-ethics-english>

https://www.socialworkers.org/includes/newIncludes/homepage/PRA-BRO-33617.TechStandards_FINAL_POSTING.pdf

E. Assessment of risk and establishment of a process should a risk arise

Not all clients will do well or best be suited for telehealth services; however, as we address a national pandemic lack of services as well as exposure risks for Coronavirus may be a greater risk. Clinicians will need to evaluate clinical considerations for each client. Clients' will have a variety of feelings regarding the technology itself as well as managing their emotions towards the implications of the Coronavirus in their personal lives. Clinicians should have a process for establishing risks and creating a safety plan from the beginning should symptoms worsen for all clients. Intake assessments that highlight potential lethality or Severe Mental Illness (SMI) are imperative as well as on-going assessments to ensure identifying potential risks. While providing telehealth services clinicians should have a knowledge of resources within the clients' access.

Additionally, it is recommended that clinicians carry telehealth liability insurance.

F. Billing and Payment Issues for private practice settings

Private practitioners who are using telehealth as a means to provide care will need to be aware of their legal and financial responsibilities when billing insurance claims. As we are actively in the midst of this pandemic insurers are changing on a daily basis what is allowed. Clinicians will need to check with each insurer they are credentialed with regarding the process and if allowed for telehealth. Each insurance will guide the clinician on any restrictions and/or needed information.

As of 3/18/2020 Medicare posted new temporary telehealth guidance allowing for such services. You can read more about that here:

<https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>

Other insurances have also relaxed regulations and are allowing for telehealth services. For example, Aetna has authorized all participating providers to provide telehealth with no copay or deductible with some self- funded plans as an exception but an attestation form must be completed.

Billing of telehealth services involves using the service location code of 02 which is the telehealth location code. Most clinicians use the location code of 11, which is office location. Additionally, insurances typically require either GT or 95 as the modifier to clarify that telehealth services were provided.

As clinicians wish to learn more about telehealth there are numerous resources for greater learning. Here is a brief list, although in no way comprehensive, of options for additional education regarding telehealth:

<https://members.aswb.org/wp-content/uploads/2017/11/Regulations-for-social-work-electronic-practice-11.14.17.pdf>

<http://www.flhealthsource.gov/telehealth/>

<https://www.flrules.org/gateway/ruleno.asp?id=64B89.0141>

https://www.integration.samhsa.gov/operations-administration/practice-guidelines-for-video-based-online-mental-health-services_ata_5_29_13.pdf

<https://www.ashrm.org/sites/default/files/ashrm/TELEMEDICINE-WHITE-PAPER.pdf>

<https://www.socialworkers.org/LinkClick.aspx?fileticket=lcTcdsHUeng%3d&portalid=0>

[https://www.socialworkers.org/includes/newIncludes/homepage/PRA BRO 33617.TechStandards_FINAL_POSTING.pdf](https://www.socialworkers.org/includes/newIncludes/homepage/PRA_BRO_33617.TechStandards_FINAL_POSTING.pdf)

https://www.americantelemed.org/resource_categories/practice_guidelines/

<https://telehealth.org/>

<https://personcenteredtech.com/>

[https://www.cphins.com/teletherapy the dos the donts and the in between/](https://www.cphins.com/teletherapy_the_dos_the_donts_and_the_in_between/)

[https://www.cchpca.org/sites/default/files/2019 05/cchp_report_MASTER_spring_2019_FINAL.pdf](https://www.cchpca.org/sites/default/files/2019_05/cchp_report_MASTER_spring_2019_FINAL.pdf)

<https://www.setrc.us/>

<https://www.apa.org/practice/guidelines/telepsychology>

https://www.aamft.org/Documents/Products/AAMFT_Best_Practices_for_Online_MFT.pdf