

Licensee and Registrant Information Regarding Telehealth

Notice to Licensees and Registrants Regarding Providing Psychotherapy or Counseling via Telehealth

Individuals who provide psychotherapy or counseling, either in person, by telephone, or over the Internet, to a client located in California, must be licensed in California. Licensure affords the Board authority to take action against a licensee engaged in unprofessional conduct.

Licensing requirements vary by state. If your client is travelling to another state and wishes to engage in psychotherapy or counseling via telehealth with you while he or she is away, you need to check with the state where your client will be to see if this is permitted.

According to Business and Professions Code Section 2290.5, prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for this use. The consent shall be documented. All laws regarding the confidentiality of health care information and a patient's right to his or her medical information shall apply to telehealth interactions.

In addition, when you provide psychotherapy or counseling via telehealth, there are certain steps you need to take with each client in order to comply with the law. Some of these steps are one-time actions, and are done upon initiation of telehealth services with your client, while others are ongoing and must be done each time you provide telehealth to each client. These steps are listed in the relevant statutes and regulations shown below.

Please be aware that failure to comply with any of the provisions regarding telehealth in statute and regulation is considered unprofessional conduct.

Below are the relevant statutes and regulations governing the use of telehealth:

Business and Professions Code Section 2290.5

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means either of the following:

(A) A person who is licensed under this division.

(B) A marriage and family therapist intern or trainee functioning pursuant to Section 4980.43.

(4) “Originating site” means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) “Synchronous interaction” means a real-time interaction between a patient and a health care provider located at a distant site.

(6) “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient’s rights to his or her medical information shall apply to telehealth interactions.

(g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, “telehealth” shall include “telemedicine” as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

California Code of Regulation Title 16 Section 1815.5: Standards of Practice for Telehealth

(a) All persons engaging in the practice of marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling via telehealth, as defined in Section 2290.5 of the Code, with a client who is physically located in this State must have a valid and current license or registration issued by the Board.

(b) All psychotherapy services offered by board licensees and registrants via telehealth fall within the jurisdiction of the board just as traditional face-to-face services do. Therefore, all psychotherapy services offered via telehealth are subject to the board’s statutes and regulations.

(c) Upon initiation of telehealth services, a licensee or registrant shall do the following:

(1) Obtain informed consent from the client consistent with Section 2290.5 of the Code.

(2) Inform the client of the potential risks and limitations of receiving treatment via telehealth.

(3) Provide the client with his or her license or registration number and the type of license or registration.

(4) Document reasonable efforts made to ascertain the contact information of relevant resources, including emergency services, in the patient’s geographic area.

(d) Each time a licensee or registrant provides services via telehealth, he or she shall do the following:

(1) Verbally obtain from the client and document the client’s full name and address of present location, at the beginning of each telehealth session.

(2) Assess whether the client is appropriate for telehealth, including, but not limited to, consideration of the client’s psychosocial situation.

(3) Utilize industry best practices for telehealth to ensure both client confidentiality and the security of the communication medium.

(e) A licensee or registrant of this state may provide telehealth services to clients located in another jurisdiction only if the California licensee or registrant meets the requirements to lawfully provide services in that jurisdiction, and delivery of services via telehealth is allowed by that jurisdiction.

(f) Failure to comply with these provisions shall be considered unprofessional conduct.

