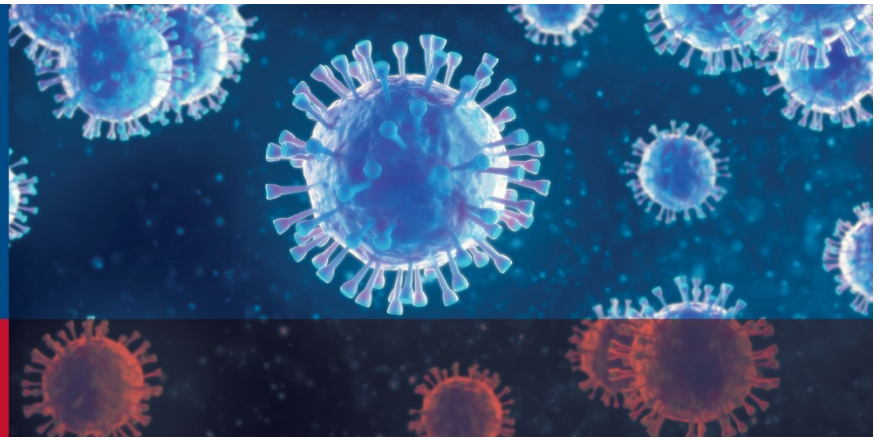




American Professional Agency



RISK MANAGEMENT



This document contains best practices as of March 17, 2020

## Frequently Asked Questions about Coronavirus (COVID-19) and Telehealth

### ***Can I provide telehealth services to a patient that is out of state?***

You must be licensed in the state where the patient resides and services are being rendered. Recommendations are to consult the Interstate Medical License Compact website (<https://imlcc.org>), state licensing boards, the Federation of State Medical Boards website (<https://fsmb.org>) or PSYPACT (<https://psypact.org>) for details on how to obtain medical licenses in multiple states prior to engaging in telepsychiatry practice. The Centers for Medicare and Medicaid Services (CMS) recently reported they will temporarily waive requirements that out-of-state providers be licensed in the state where they are providing services when they are licensed in another state. Also, CMS is temporarily permitting providers located out of state to provide care to another state's Medicaid and Medicare enrollees impacted by the emergency.

### ***Do I need to obtain the patient's consent prior to providing telehealth services?***

Yes, proper informed consent including a discussion of risks, benefits and alternatives to telehealth is needed. Some states require written informed consent. Follow all state and federal laws including laws related to telehealth, prescribing and privacy for each state where you are licensed and plan to practice tele-mental health.

<https://www.psychiatry.org/psychiatrists/practice/telepsychiatry/toolkit>

### ***Are telehealth services covered by health insurance?***

It is recommended that you reach out to the individual insurance companies that you are seeking reimbursement from to identify whether the service will be covered and if co-pays will be waived during this national emergency.

[https://www.psychiatry.org/psychiatrists/practice/telepsychiatry/blog/apa-resources-on-telepsychiatry-and-covid-19?utm\\_source=Internal-Link&utm\\_medium=Side-Hero&utm\\_campaign=Covid-19](https://www.psychiatry.org/psychiatrists/practice/telepsychiatry/blog/apa-resources-on-telepsychiatry-and-covid-19?utm_source=Internal-Link&utm_medium=Side-Hero&utm_campaign=Covid-19)

<https://www.americantelemed.org/press-releases/ata-commends-congress-for-waiving-restrictions-on-telehealth-for-medicare-beneficiaries-in-response-to-the-covid-19-outbreak/>

### ***What platforms do you recommend to perform telehealth services?***

While we do not offer recommendations on specific platforms, ensure the platform is HIPAA compliant. The system should offer secure communication to protect the integrity of electronic protected health information [ePHI]. A system of monitoring communications containing ePHI should be implemented to prevent accidental or malicious breaches. A business associate agreement is needed from service providers to be used to conduct telehealth sessions and consultations. **Although Skype and Facetime**

are not HIPAA compliant platforms, President Trump just waived the HIPAA requirements and authorized their use.

<https://www.hhs.gov/hipaa/for-professionals/covered-entities/sample-business-associate-agreement-provisions/index.html>

### ***Can standalone phone calls be considered HIPAA-compliant?***

There are a lot of interpretations about whether phone calls are HIPAA-compliant. Determining this is dependent upon how the telephone system you are using (whether a traditional landline, mobile device, Voice over Internet Protocol [VoIP] – i.e., a phone that uses the internet to make calls, or the use of a third party phone call system embedded in a mobile application), handles Protected Health Information [PHI] under HIPAA. Use caution with cell phones – obtain informed consent (verbal with teach back is acceptable) that they understand that you cannot guarantee privacy and confidentiality, ensure that your patient/client is aware not to use coffee shops or other locations offering free Wi-Fi or to place calls from a public place given the potential for hacking, and that they are aware of the need for physical privacy.

### ***Can I see a new patient via telehealth?***

It is recommended that you refer to the state regulations where you are practicing related to any restrictions for first time patient visits.

### ***Can I prescribe new medications using telehealth?***

The Ryan Haight Online Pharmacy Consumer Protection Act of 2008 was created to regulate online internet prescriptions, is enforced by the DEA (Drug Enforcement Agency) and imposes rules around the prescription of controlled substances through telepsychiatry (live interactive videoconferencing). The Act requires any practitioner issuing a prescription for a controlled substance to conduct an in-person medical evaluation; The Act does contain several exceptions including a “Public health emergency declared by the Secretary of Health and Human Services.” **However, prior to prescribing a controlled substance to a new patient it is recommended that you check with your state board of medicine to determine whether this is in compliance with state regulations.**

<https://www.psychiatry.org/psychiatrists/practice/telepsychiatry/toolkit/ryan-haight-act>

### ***Are there any technology considerations that I should be aware of?***

Yes – before proceeding be sure:

- the technology platform is consistent with HIPAA-compliant practices
- a Business Associate Agreement (BAA) for technology vendor exists
- adequate internet connectivity for videoconferencing is available
- the patient knows how to log in and use the technology
- a password-protected, secure internet connection (not public or unsecured Wi-Fi) is utilized
- to educate your patient about the use of public, unsecured Wi-Fi and how it increases the risk of being hacked
- antivirus/anti-malware protection is up to date to prevent being hacked.

Should you have further questions, please contact AWAC Services Risk Management at [riskmanagement@awacservices.com](mailto:riskmanagement@awacservices.com).

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