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From: OCA: Government Relations Committee
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Sent: Monday, April 6, 2020 3:15 PM
To: bobthomas@exhibitmanagement.com
Subject: Emergency Rule 4757-5-13 - Teletherapy



Ohio Counseling Association

UPDATE: Emergency Rule 4757-5-13 ENACTED

Please see below an update from the OCSWMFT Board on Emergency Rule 4757-5-13 that was enacted on Saturday. The emergency rule expands access to therapy services for clients by:

- Clarifying that no training is required prior to providing teletherapy BUT does require that licensees provide services only if they can competently provide such services
- waives the requirement to hold a face-to-face meeting in-person or via video prior to rendering services
- allow for verbal consent when written consent cannot be obtained
- Follows federal guidance regarding HIPAA compliant technology

Peace be the journey,

OCA Government Relations Committee

Sean Gorby, Chair

Emergency Rule 4757-5-13 – Teletherapy

On Saturday, as the result of an Executive Order issued by Governor Mike DeWine, the CSWMFT Board filed emergency rule [4757-5-13](#). The rule will remain in effect until August 4, 2020. The emergency amendments to Rule 4757-5-13 expand access to teletherapy services for clients by: clarifying that no training is *required* prior to providing teletherapy, however, the rule does require that licensees provide services only if they can competently provide such services; it waives the requirement to hold a face to face meeting in-person or via video prior to rendering services; allows for verbal consent when written consent cannot be obtained; and it follows federal guidance regarding HIPAA compliant technology. These changes align with changes to Ohio's Medicaid rules.

CSWMFT licensees should also review Medicaid's [Rule 5160-1-21](#) which covers requirements for professionals providing telehealth to Medicaid clients. See also Rule [5160-8-05](#) for a list of additional behavioral health professionals who may render services under Medicaid rules. Providers certified by the Ohio Department of Mental Health and Addiction Services should review Rule [5122-29-31](#).

Many licensees are considering providing teletherapy for the first time. Some questions to ask if you are going to provide teletherapy are below. How you answer these will help you decide how best to prepare:

1. Do I have the skills and competencies necessary to provide teletherapy? If the answer is no, what do I need to do to develop those skills?
2. Do I have the right recordkeeping practices in place?
3. Does my liability insurance allow me to provide teletherapy?
4. Is my employer supportive of my doing teletherapy?
5. Are insurers whom I will be billing allowing for teletherapy?
6. If you are planning to continue to provide services to existing clients, who among your clients might benefit from teletherapy? Who might face challenges?
7. If you are working with new clients via teletherapy, are you prepared to assess the appropriateness of video or phone therapy with the clients?
8. How do you ensure equitable opportunities for all clients? Are you prepared to refer out any clients whom you cannot serve because of insurance issues, the presenting problem, or client issues with being served via video or phone?
9. Do the presenting problems you often treat translate well over teletherapy?

The Board recognizes many licensees are embarking on new ways of providing services, which can be challenging. The change to OAC Rule 4757-5-13 offers important flexibility in meeting the needs of clients. However, the code of ethics and scopes of practice remain unchanged. Licensees must continue to practice in ways that ensure client care is not compromised. An example is supervision. Licensees required to be

supervised when diagnosing and treating should be receiving supervision regularly as required in the rules. Supervision can occur via video or over the phone.

Many licensees have asked about resources for teletherapy. Check out the Board's [COVID-19 response](#) page for links to resources. Those interested in taking continuing education about teletherapy should visit the CE Broker website at <https://courses.cebroker.com/search> and search for courses using the term "telehealth". Licensees are particularly encouraged to review the guidance provided by the U.S. Department of Health and Human Services that can be found at <https://www.hhs.gov/hipaa/for-professionals/special-topics/hipaa-covid19/index.html>.

House Bill 197

On March 27, Governor Mike DeWine signed House Bill 197 which provides emergency relief to Ohioans during the COVID-19 pandemic. One provision of the legislation states that no license issued by State government can be considered "expired" between March 9, 2020 through the earlier of 90 days following the end of the emergency or 12/1/2020. This provision applies to all licenses and registrations, including trainee registrations, issued by the Board. CSWMFT Board staff is working closely with its IT partners to make necessary adjustments to the eLicense system. Licensees will be provided additional information and guidance regarding the implications of this legislation soon.

Survey on COVID-19 Staffing

Last week this Board, as well as many other healthcare boards, shared a link to a survey. The goal of this survey is to identify unaffiliated personnel (people not already being counted by hospitals) who could support potential hospital surge from COVID-19. Support may be needed for both clinical and behavioral healthcare. This is an unprecedented incident, and we may need the entirety of the State of Ohio, working together, to mount an effective response. By responding you are not committing to volunteering or working in any specific location or setting.

https://www.surveymonkey.com/r/COVID-19_Surge

If you have not done so already, please take a few minutes to complete the survey. Available and interested personnel will be contacted by a representative from the State of Ohio to discuss next steps to ready you for a possible assignment.



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