

Telebehavioral Health Guidelines

State of Ohio

Taskforce:

Katie Gamby, PhD, LPC, CWC; Christina Schnyders, PhD, LPCC,
Patty McGrath, M.S., LPCC-S, LICDC, NCC, Kara Kaelber, PhD, LPCC-S

Preamble

The Coronavirus pandemic has created a surge in mental health professionals offering telebehavioral health services. While the Ohio Counselor, Social Worker and Marriage and Family Therapist Board does not require certification for licensed clinicians to provide telebehavioral health services, we strongly encourage you to seek continuing education in this area in order to learn about relevant Federal, State, County, and Board laws, rules and regulations; remain ethical and HIPAA compliant when providing services; prioritize the safety of your clients; and best prepare to avoid unanticipated litigation that may put our licenses at risk. The following are general guidelines and suggestions to those of you who are moving to telebehavioral health counseling both because of coronavirus and continued telebehavioral health after the threat has lifted.

Screening Clients for Telebehavioral Health Appropriateness

Providing telebehavioral health services offers convenience, increased availability, reduced stigmatization, and savings in both time and money. However, not all clients' needs will be best met by receiving mental health services remotely. Factors to consider when screening clients for telebehavioral health appropriateness include:

- **Severity of client pathology/diagnosis.** Clients with severe pathology (e.g, history of suicide attempts or self harm, homicidal tendencies, impulse control disorders, or substance use disorders) may need to receive services in a more controlled environment, such as a hospital, clinic, or agency versus the home. Unexpected occurrences and

difficult situations such as children being present in the home, risk of domestic violence, overdose, or the client quickly decompensating are additional reasons that may warrant providing services in a more controlled environment.

- **Counterintuitive presenting concerns.** Does the client have a diagnosis that is counterintuitive to telebehavioral health counseling? For instance, a client who has agoraphobia or social anxiety disorder, where their treatment may ask them to leave the house and telebehavioral health may increase, rather than decrease, the problem?
- **Length of time working with the client.** It is necessary to think about whether or not you have enough experience/relationship/information about the client to be able to successfully help them using telebehavioral health. If you have limited experience with the diagnosis or client presenting concerns, don't have a relationship built with the client, or have a lack of information about the client's presenting concerns, the risk for unexpected situations to arise through telebehavioral health may increase significantly. It is recommended to meet with the client, in person, before pursuing telebehavioral health services.
- **The client's knowledge and comfort with the technology through which services will be provided.** If a client is concerned about their ability to use the appropriate technology or doesn't believe the technology would serve them, it is likely counterproductive to provide online services to that particular client. Client comfort and knowledge with the technology being used helps create a less stressful experience.
- **The client's ability to secure a private space.** If the client will not have access to a private space to participate in telebehavioral health services, it is likely the client won't feel comfortable sharing about their presenting problems. Verify the client has a private and secure location to complete telebehavioral sessions.

This is not an exhaustive list of issues to consider when screening clients for appropriateness of receiving mental health services remotely. Instead, the list is meant to stimulate thought regarding "what-if" situations so that the mental health professional can be as fully prepared as possible *prior* to having the initial remote session with a client to ensure success in meeting the client's needs.

Assessment

"Psychological assessment is an integral component of telemental health (TMH) practice and is necessary for diagnostics, screening, symptom monitoring, and evaluations of treatment progress and outcomes" (Luxton, Pruiit, & Osenbach, 2014). The biggest difference between in-

person and remote assessment is that the client is not physically present in the room with the clinician. Completing the mental health exam is challenging because of the limited use of our senses. It may be necessary to ask the client to change the camera position to observe the client's gait; see evidence of self-harm, the presence or absence of tics or involuntary movements, limb abnormalities or amputation, etc. Without our sense of smell, we cannot tell if a client is inebriated, has bad breath, or hasn't showered recently. To help evaluate client hygiene, we can ask clients to bring their hands to the camera so that we can observe the condition of fingernails. Other observations may be hard to confirm. For example, is the client's avoidant eye contact an indicator of boredom or disinterest, or are they responding to internal stimuli or having hallucinations?

When assessing clients remotely, be aware of:

- problems inherent with the technology being used
- the client's current stressors and ability to be honest
- the client's culture, language, and competence
- if the environment in which the assessment is administered is conducive to privacy.

Suggested best practices include:

- Only administer assessments that you are qualified to administer and interpret. Stay within your scope of practice.
- Confirm that the assessment you are about to use is appropriate for online administration.
- Determine which clients are most appropriate for remote assessments.
- Consider how you will ethically disengage from a client whose issues are outside your scope of practice.

Crisis Intervention

- Before beginning the intake process, ask where the client is located and complete research on local crisis services.
- During the informed consent/confidentiality process, discuss with the client what safety plan procedures you will use in the event the client is suicidal/homicidal. Discuss with the client what resources are available to them both locally and nationally. Send copies of this information through secure email.
- **Before EACH session with clients**

- Determine where the client is located (gather specific location address, as they may not be at the address they deem “home” when completing every session), in the event you have to call emergency personnel to assist the client in getting to a hospital or crisis center.
- Assess clients for risk of suicide or homicide
- Assess for self-harm, psychosis/dissociation, and substance use
- It would be helpful for counselors to have objective instruments to screen clients verbally about the aforementioned topics within a telebehavioral health session.
- If the client is deemed suicidal/homicidal, follow your informed consent/confidentiality procedures and verify what happened within progress notes.
- At any time, if it is determined the issues the client presents with are not appropriate for telebehavioral health, help the client find at least three referrals in their area before terminating services.

Informed Consent

- It is important to provide an option for written informed consent that a client would read, sign, and date and then go over each area verbally with the client when you meet. It is suggested that you create a separate document for telebehavioral health clients versus in person clients that would include the following additions:
 - Discuss the benefits and risks to video sessions and how that differs from in person sessions
 - Discuss confidentiality and limits to telebehavioral health services (i.e., client has to be located within the state the counselor is licensed within)
 - Discuss what kind of platform/technology you are using and how to use it, verifying that the technology you are using is HIPAA compliant.
 - Discuss what technology the client will need for minimum access
 - Discuss what kind of setting the client should create for sessions (quiet spot, free from distractions, potentially both counselor/client use headphones for increased privacy)
 - Discuss the importance of using secure internet connection rather than public/free Wi-Fi.
 - Discuss expectations for the session (being on time, appropriate time frame to cancel/reschedule, back-up plans if there is a technical problem)
 - Discuss safety plan for telebehavioral health (see Crisis Intervention)
 - Discuss payment for the sessions
 - Clinicians are encouraged to contact both their accepted insurance health plans and malpractice insurance carriers to determine if they are covered for distance counseling sessions

Credentials and Training

- Those who are using telemental health services should have undergone training to counsel in this modality. A minimum of 10 CEUS is recommended to initially utilize telemental health services with clients. Additionally, it is recommended that counselors complete a minimum of 3 CEUS in telemental health ethics every two years beyond their initial training to ensure that counselors are up to date on ethical considerations for telemental health services.
- Counselor supervisors should also receive training in telemental health counseling and telemental health supervision. It is recommended that supervisors complete a minimum of 3 CEUs in telemental health supervision every two years to ensure that they are up to date on best practices for telemental health supervision.
- Counselor trainees should only engage in telemental health if they have undergone training and are under the supervision of a counselor who has undergone training to counsel in this modality.
- Counselor educators should address the incorporation of technology into counseling. Specifically, the following areas should be discussed within counselor education curriculum:
 - The impact of technology on the profession of counseling (CACREP, 2016: 2.F.1.j.)
 - Ethical and culturally relevant strategies for establishing and maintaining technology-assisted relationships (CACREP, 2016: 2.F.5.d.)
 - The impact of technology on the counseling process (CACREP, 2016: 2.F.5.e.)
 - Doctoral students should learn about the use of technology in supervision (CACREP, 2016: 6.B.2.g.)

Technology

- All forms of technology utilized in counseling sessions should be named and described as part of informed consent. Benefits and drawbacks of the use of technology in counseling should also be discussed.
- Telemental health counseling sessions should be conducted using software and/or apps that are HIPAA/HITECH compliant.
- Counselors should have HIPAA Business Associate Agreements (BAAs) with any/all partners to maintain overall HIPAA compliance. This includes counselors using technologies to do telebehavioral health. See “Helpful Telebehavioral Health Resource Section” for more information
- Counselors should have a back-up plan for reconnecting with clients should technology fail during a counseling session. This contingency plan should be discussed as part of informed consent and revisited as needed throughout treatment.

Ethical and Legal Guidelines for the Practice of Telehealth in Ohio

Legal Definition of Telehealth

“Telehealth” is defined as the delivery of mental health services from a designated licensed mental health practitioner to a client via electronic communication that includes audio and video components (Ohio Administrative Code [OAC] § 5160-1-18). This type of electronic communication is required to be interactive, synchronous (in real-time), and secure. As outlined in Chapter 4757 of the Ohio Revised Code, the following mental health practitioners are eligible providers of telehealth: Licensed Professional Clinical Counselors, Licensed Independent Marriage and Family Therapists, Licensed Independent Social Workers, and Licensed Chemical Dependency Counselors (OAC § 5160-1-18). Delivering health care services to clients via electronic mail, telephone, or through a facsimile transmission are activities which are not considered to be telehealth (OAC § 5160-1-18).

The following guidelines were developed based on telehealth best practices and standards addressed in the Ohio Counselor Social Worker and Marriage and Family Therapist Board’s laws and rules, in the Ohio Administrative Codes (OAC) and in the Ohio Revised Codes (ORC), and in the American Counseling Association’s (ACA, 2014) *Code of Ethics*. Section H of the *Code of Ethics* (ACA, 2014) specifically outlines standards related to various aspects of telehealth, including policies and procedures for the use of distance counseling, technology, and social media.

Telehealth services are defined within the Ohio Administrative Code § 4757-3-01 in paragraph (GG). Licensed counselors who engage in telehealth services with clients must adhere to the standards of professional conduct and ethical practice in accordance with the Ohio Administrative Codes § 4757-5-01 to § 4757-5-12 and the ACA (2014) *Code of Ethics*.

Guideline 1: Competence of the Licensed Counselor to Provide Telehealth Services

Licensed counselors are required to operate within their boundaries of competence. They should only provide electronic services for which they have received prior education, training, and experience (OAC § 4757-5-13). They should continually seek opportunities to develop knowledge and skills in various aspects of telehealth, including technical, ethical, and legal considerations (ACA, 2014, Section H.1.a.).

Guideline 2: Standards of Professional Practice in the Delivery of Telehealth Services

The provision of telehealth by licensed counselors in the state of Ohio is governed by the same laws, regulations, and ethical codes (ACA, 2014) for counselor practice as in more established

and traditional methods of counselor practice (i.e., in-person counseling). Licensed counselors who engage in telehealth are required to take steps to verify the identity of the client prior to and throughout the counseling process. The identity of the client can be verified through various methods, such as the use of code words, graphics, numbers, passwords, and phrases (ACA, 2014, Section H.3.; OAC § 4757-5-13).

Licensed counselors who offer telehealth services should provide information and/or electronic links to relevant licensure and professional certification boards for the protection of client/consumer rights (ACA, 2014). For those licensed counselors who maintain a professional counseling website, it is important for them to ensure that the information provided is current, accurate, and that the electronic links are working (ACA, 2014, Sections H.5.b. - H.5.c.). These websites must also be accessible to individuals with disabilities. When possible, licensed counselors should provide translation capabilities for individuals with different primary languages (ACA, 2014, Section H.5.d.).

Licensed counselors must establish professional boundaries within the telehealth therapeutic relationship (ACA, 2014, Section H.4.b.) They must inform clients of these boundaries from the onset of the provision of telehealth services regarding the appropriate use of technology and the limitations of its use in counseling (ACA, 2014, Section H.4.b.)

Licensed Counselors should regularly and continually assess the effectiveness of telehealth services for the client to determine if progress is being made toward treatment goals (OAC § 4757-5-13). When telehealth services are deemed to be ineffective by either the licensed counselor or client, then counselors must either offer in-person counseling services or assist the client in identifying appropriate counseling services (ACA, 2014, Section H.4.d.).

Licensed counselors are required to provide each client with information on procedures in case of an emergency or crisis. They must identify appropriate professionals that the client can contact for local assistance, including the local crisis hotline telephone number and the local mental health services telephone number (OAC § 4757-5-13).

Guideline 3: Informed Consent

Licensed Counselors are mandated to provide informed consent to each client in accordance with the Ohio Administrative Code § 4757-5-02. In addition to the customary procedures for informed consent that are utilized in traditional in-person counseling sessions, there are unique issues that must be addressed by the licensed counselor before using telehealth. In compliance with the Ohio Administrative Code § 4757-5-13, licensed counselors using telehealth will not provide services without a signed informed consent by the client. Clients should be able to choose whether to engage in telehealth services and should be provided with time to ask questions about

the process (ACA, 2014; OAC § 4757-5-13). As outlined in the Ohio Administrative Code § 4757-5-13 and in the ACA (2014) *Code of Ethics*, the following topics must be addressed during the informed consent process:

- Telehealth credentials of the licensed counselor
- Physical location of the practice
- Contact information
- Benefits, risks, and limitations of participating in telehealth services
- Technology requirements and affiliated privacy and security risks
- Potential for technology failure and related procedures, including alternative methods of delivery service
- Typical response time
- Emergency protocol when the counselor is not available
- Differences in time zones
- Cultural differences and the potential impact on telehealth services
- Data storage devices or media
- Billing procedures and access to insurance benefits
- Policies for the use of social media
- Procedures for notifying clients if a breach of confidential information would occur
- Ethical and legal considerations associated with telehealth

Guideline 4: Confidentiality of Data and Information

Licensed counselors are required to maintain confidentiality in the delivery of telehealth services and in the maintenance of client records (ACA, 2014, Section H.2.b.; OAC § 4757-5-13).

Licensed counselors must use delivery methods that are encrypted and compliant with the Health Insurance Portability and Accountability Act of 1996. Licensed counselors must inform clients of the inherent limitations of maintaining confidentiality regarding the use of technology, in general, and specifically in the use of electronic records and telecommunications. In cases of a breach of confidential information, licensed counselors are obligated to notify their clients.

Guideline 5: Security, Transmission, and Storage of Data and Information

Licensed counselors have the responsibility to maintain and establish technologically safe and secure means of delivering telehealth services (OAC § 4757-5-13). Licensed counselors are mandated to establish a protocol for the secure storage, retrieval, and deletion or destruction of data, with a description of the technologies used in the storage, maintenance, and transmission of telehealth data (OAC § 4757-5-13).

Licensed counselors are mandated to use current encryption standards in their websites and in their delivery and management of telehealth services (ACA, 2014). Licensed counselors are

mandated to establish and maintain secure and encrypted electronic records in accordance with pertinent laws and statutes (ACA, 2014).

Licensed counselors are required to maintain and securely store client records and all relevant communication with clients in accordance with the Ohio Administrative Code § 4757-5-09 and the ACA (2014) *Code of Ethics*, as described in Section H.5.a. All records are mandated to be kept for a minimum of seven years (OAC §4757-5-13).

Clients have the right to waive encryption via the informed consent process. It is the responsibility of the licensed counselor to ensure that the client understands the risks and limitations of using non-encrypted forms of communication (OAC § 4757-5-13).

Guideline 6: Screening and Assessment

Licensed counselors are required to screen potential clients to determine their appropriateness to receive telehealth services (OAC § 4757-5-13). Multicultural considerations must be considered prior to using telehealth. The electronic delivery service methods should be assessed for appropriateness with clients of diverse cultural backgrounds. Licensed counselors are required to assess potential and current clients' intellectual, cognitive, emotional, physical, linguistic, and functional capacity to effectively engage in telehealth services (ACA, 2014, Section H.4.c.). Licensed counselors are to acknowledge the different levels of technological competence among family members or a group and discuss and document the inherent power dynamics and their potential impact on the telehealth process (OAC § 4757-5-13).

Guideline 7: Interjurisdictional Practice

Licensed counselors must adhere to the laws and rules of both the counselor's and client's physical locations during the delivery of telehealth services (ACA, 2014; H.1.b.) According to the Ohio Administrative Code § 4757-5-13, counselors who provide telehealth services to clients who are physically present in Ohio must be licensed in Ohio. All counselors licensed in the state of Ohio who provide telehealth services to clients outside of Ohio must adhere to the laws and rules governing the jurisdiction.

Helpful Telebehavioral Health Resources (4/1/2020)

HIPAA Compliant Technology

HIPAA Compliant (as of 4/10/20)

Zoom Business (200.00 a month)

Doxy.me

TheraPlatform
VSee.com (49.99 a month)
Thera-Link.com
WeCounsel.com

Not Currently HIPAA Compliant (as of 4/10/20)

Skype
FaceTime

Business Associate Agreements

A Business Associate Agreement (BAA) is intended to protect telemental health providers in situations where a data breach occurred. A Business Associate would include anyone who is privy to protected health information (PHI) as a result of working with a telemental health provider. A BAA should include not only a vendor, but the vendor's subcontractors as well. BAAs should be established before any PHI information is exchanged and should be evaluated for quality.

- US Department of Health & Human Services
- Prometheus Research
- Centers for Medicare & Medicaid Services
- www.samhsa.gov
- www.HIPAAjournal.com

Telemental Health Trainings

Center for Credentialing and Education: <https://www.cce-global.org/credentialing/bctmh>
Upper Midwest Telehealth Resource Center: <https://www.umtrc.org/>
Telebehavioral Health Institute, Inc.: <https://telehealth.org/>