

## **REVISED TELEPSYCHOLOGY GUIDELINES FOR COVID-19 – Effective September 1<sup>st</sup>, 2020**

In light of learning that the 3/16/20 federal Health and Human Services [HHS] memorandum on telehealth does apply to psychology and working with several psychologists on this issue in recent days, the Board is revising its guidelines, which were initially posted on 3/20/2020 and were strongly influenced by the fact that we couldn't be certain that the HHS memorandum applied to telepsychology.

There are various links mentioned below, which are found in the links section of this webpage.

### **VIDEO COMPUTER HIPAA COMPLIANT PLATFORMS**

The HHS memorandum was entitled “Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency.”

We now know that this 3/16/20 HHS memorandum includes telepsychology. Here is a brief version of the HHS document, with some modifications to include the Board.

It said, in brief, “During the COVID-19 national emergency, which also constitutes a nationwide public health emergency, covered health care providers subject to the HIPAA Rules may seek to communicate with patients, and provide telehealth services, through remote communications technologies...HHS will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth... A covered health care provider... can use any non-public facing remote communication product [audio or video communication technology] that is available to communicate with patients.”

### **KEY CRITERIA**

Tele-Psychology computer platforms that are most preferred and secure are [1] HIPAA compliant, [2] not public facing, [3] provided by companies which will enter into HIPAA Business Associate Agreements [BAAs], and [4] encrypted from end to end.

### **PREFERRED PLATFORMS – HHS AND BOARD**

“Covered health care providers that seek additional privacy protections for telehealth while using video communication products should provide such services through technology vendors that are HIPAA compliant AND WILL ENTER INTO HIPAA BUSINESS ASSOCIATE AGREEMENTS (BAAs) in connection with the provision of their video communication products. The list below includes some vendors that represent that they provide HIPAA-compliant video communication products and that they will enter into a HIPAA BAA,” stated HHS.

Skype for Business Microsoft Teams Updox VSee Cisco Webex Meetings Webex Teams Doxy.me  
GoToMeeting Google G Suite Hangouts Meet Amazon Chime Zoom for Healthcare

## **OTHER PREFERRED PLATFORMS - BOARD**

These companies will route your communication through HIPAA compliant secure servers. Some names of such companies are listed below. The board is not endorsing them. We learned about them from psychologists who have or are using them.

[a] Ethan Paxon, First Choice Services – 304-344-2113

email: Ethan@1stchs.com web: <https://www.adaptivetelehealth.com/index.php/>

[b] WeCounsel web: <https://www.wecounsel.com/>

Scroll down to “WeCounsel” and click on “Get Started.”

[c] Theraplatform web: <https://www.theraplatform.com/>

[d] Thera-link web: <https://www.thera-link.com/>

## **NOT PREFERRED BUT ACCEPTABLE – HHS AND BOARD**

HHS also stated, “Under this Notice, covered health care providers may use popular applications that allow for video chats,” as noted below, “or to provide telehealth without risk that HHS might seek to impose a penalty for noncompliance with the HIPAA Rules related to the good faith provision of telehealth during the COVID-19 nationwide public health emergency. Providers are encouraged to notify patients that these third-party applications potentially introduce privacy risks, and providers should enable all available encryption and privacy modes when using such applications.”

Apple FaceTime Facebook Messenger Video Chat, Google Hangouts Video Skype

Note: The Board and HHS have “not reviewed the BAAs offered by these vendors, and this list does not constitute an endorsement, certification, or recommendation of specific technology, software, applications, or products. There may be other technology vendors that offer HIPAA-compliant video communication products that will enter into a HIPAA BAA with a covered entity.” “Further,” the Board and HHS “do not endorse any of the applications that allow for video chats listed above.”

## **NOT ACCEPTABLE WARNING**

“Under this Notice, however, video communication applications that are public facing, SHOULD NOT BE USED in the provision of telehealth by covered health care providers.” Examples included:

Facebook Live Twitch TikTok Similar video communication applications

## **CONSENT TO TELETHERAPY**

These are listed in order of most preferred to least preferred, but all are acceptable.

Written Consent from Patients Using Cell Phones: One organization is mailing the consent form to patients who sign them, take a picture of the signed form and email the picture to the psychologist. In the case of video therapy, the patient holds the form in front of the computer camera. Psychologists take a screen shot or a photo of the forms with their phones.

Witnessed Verbal Consent: Psychologists have a colleague listen to the patient giving a verbal consent and this is documented in the patient record.

Documented Verbal Consent: The patient gives verbal consent and the psychologist documents it in the record.

## **TELE-TESTING**

Tele-testing via the above described acceptable video computer platforms is approved by the Board. It is expected that this would be limited to a mental status examination, clinical interview, self-report inventories, and intake forms. If you wish to do other testing, please contact the board. Please note that on 3/17/20, WV DHHR decided to allow testing and listed Medicaid billing codes for same.

## **CONTINUING EDUCATION DURING THE COVID-19 CRISIS**

Encouragement for Online CEs

The board realizes that WVPA and WVAPP have cancelled their upcoming conferences. During the next five months the board encourages you to obtain CEs on line. If licensees and supervisees incur difficulty completing CE requirements, the board will consider individual appeals for accommodation.

Continuing Education on Telepsychology for Free

The board strongly advises that you complete one or both of these CEs:

APA is offering free CE's on this topic for a total of 8 hours. For a limited time, APA'S four-part Continuing Education in Psychology series "Telepsychology Best Practice 101" is available free of charge. Here is the link. Free CE series on telepsychology best practice

## **ESSENTIAL SERVICES**

The WV Governor indicated that psychological assessment and psychotherapy are essential services.

## **SUPERVISION**

Accommodation of Face to Face Supervision - During this limited time of the COVID19 crisis, supervision provided via telehealth is approved if the criteria above are met.

Provision of Services by Supervised-Psychologists via Telehealth - This is approved if the above described criteria are met.

### **TELEPSYCHOLOGY - PSYCHOLOGISTS LICENSED IN OTHER STATES**

The Board may grant a temporary permit to those holding an active license in another state. It allows up to 80 hours of psychotherapy for one year. This is approved if the out-of-state psychologists provide proof that [a] section 1 criteria are met, [b] their license is current, and [c] it is without restrictions.

In order to be granted 10-day temporary privileges during a calendar year in WV, please send a letter requesting the privilege that states what you plan to do within the State, when approximately you plan to perform psychological services in WV, your license number(s), the state(s) in which you are licensed, your business name, business address, telephone number, email address, and proof of HIPAA compliant means of communication.

The WV Board will verify your license(s) with other state boards and if all is in order, a letter granting temporary privileges will be issued. Please note again this privilege is good for 10 days per calendar year or approximately 80 hours which can be used over the course of the calendar year. This permit must be requested each year. The fee for such permit is \$100.00 per year. The fee may be paid on this webpage. Go to the blue box entitled Credit Card Payments, then Application Fees, complete the information at the top, then use the pull down and select Temporary Permit for Reciprocity Candidates - \$100, click on finish and it will take you to the WV State Treasury's website to complete the transaction. Submit your receipt and a letter with the information listed in the second paragraph of this section.

if your planned WV work is more than 80 hours, you'll need to apply for a WV license, please contact the Board office for an application packet. The email address is below.

### **TEMPORARY**

Please note that these guidelines are temporary and in effect from September 1<sup>st</sup>, 2020 until June 30, 2021. At that time, the Board will decide whether to extend them.

### **PLEASE FEEL FREE TO CONTACT THE BOARD**

Please feel free to contact Dr. Harlow via the board's email address if you have questions about this matter. The address is [psychbd@wv.gov](mailto:psychbd@wv.gov).