

4757-5-13

Standards of practice and professional conduct: teletherapy.

~~teletherapy delivery is defined in paragraph (GG) of rule 4757-3-01 of the Administrative Code. Licensees are reminded that standards of ethical practice and professional conduct rules 4757-5-01 to 4757-5-12 of the Administrative Code apply to teletherapy.~~

~~(A) These standards govern the use of electronic or digital services in the provision of services to include when the counselor, social worker or marriage and family therapist and the client are not located in the same place during delivery of services or when electronic systems or digitally-assisted systems are used to support in-person face to face therapy. Teletherapy means the use of real-time audio or audiovisual communications that permit accurate and meaningful interaction between at least two persons, one of whom is a licensee or registrant ("licensee") as defined in Ohio Revised Code Chapter 4757. For the purposes of this rule, modalities, including but not limited to phone, video, text, email, instant messaging/chat, are considered teletherapy.~~

~~(1) All practitioners providing counseling, social work or marriage and family therapy via teletherapy to persons physically present in Ohio shall be licensed in Ohio. All licensees providing counseling, social work or marriage and family therapy via teletherapy to persons physically present in Ohio shall be licensed in Ohio.~~

~~(2) All licensees of this board providing services to clients outside the state of Ohio shall comply with the laws and rules of that jurisdiction. All licensees of this board providing services to client(s) outside the state of Ohio shall comply with the laws and rules of the jurisdiction where the client is located at the time services are rendered.~~

~~(3) Licensees shall consider their education, training, and experience before providing teletherapy services and provide only services for which they are competent. Licensees shall assume responsibility to continually assess both their professional and technical competence when providing teletherapy. This includes ensuring that all methods of delivering services are compliant with commonly accepted standards of technology safety and security at the time at which services are rendered.~~

~~(4) Licensees shall screen potential distance service clients for appropriateness to receive services via distance methods, which includes considering their current mental and emotional status. Licensee shall screen the client's technological capabilities as part of the intake process. Therapists shall acknowledge power dynamics when working with a family or group with differing levels of technological competence. These considerations shall be documented in the records.~~

- ~~(5) Licensees shall be aware of cultural differences and how they can affect non-verbal cues. Teletherapy methods should be appropriate to the client's cultural experiences and environment, and shall also be sensitive to audio/visual impairment and cognitive impairment.~~
- ~~(6) Licensee shall regularly review whether teletherapy is meeting the goals of therapy.~~
- ~~(7) Teletherapy shall require an initial face-to-face meeting, which may be via video/audio electronically, to verify the identity of the teletherapy client. At that meeting steps shall be taken to address impostor concerns, such as by establishing passwords or phrases to identify the client in future electronic contacts.~~
- ~~(8) Licensees shall identify an appropriately trained professional who can provide local assistance, including crisis intervention, if needed. Licensees shall provide teletherapy clients the local crisis hotline telephone number and the local emergency mental health telephone number.~~
- ~~(9) Licensees shall retain copies of all written therapeutically relevant communication with clients, to include emails, texts, instant messages, and chat history. Records. Such records should be maintained for a minimum of seven years.~~
- ~~(10) Licensees must maintain records in accordance with rule 4757-5-09 of the Administrative Code.~~
- (B) ~~Prior to providing services, licensees must establish informed consent. Informed consent shall include information defining teletherapy delivery as practiced by the licensee and the potential risks and ethical considerations per paragraph (B) of rule 4757-5-02 of the Administrative Code.~~ Licensees shall consider their education, training, and experience before providing teletherapy services and provide only services for which they are competent. Licensees shall assume responsibility to continually assess both their professional and technical competence when providing teletherapy.
- ~~(1) Clients shall be given sufficient opportunity to ask questions and receive answers about teletherapy. These discussions should be documented in the client record.~~
- ~~(2) Informed consent should include the risks of entering private information when using a public access computer, or one that is on a shared network, and caution against using auto-fill user names and passwords. Clients should be advised to consider employer policies related to use of work computers for personal communication.~~

- ~~(3) Informed consent shall include the associated needs of delivery method, for example owning a computer with the correct capabilities or internet access, possibility of technology failure and what the procedure is in the event that services are disrupted, anticipated response time to electronic communication, alternative service deliveries, and electronic communication between scheduled appointments and after normal working hours.~~
- ~~(4) Informed consent should include a discussion of how teletherapy may affect billing and access to insurance benefits.~~
- ~~(5) Licensees shall obtain written permission prior to recording any part of the teletherapy session. If licensees are storing audiovisual data from sessions, these cannot be released to clients unless the client authorization specifically states they are to be released.~~
- ~~(6) Licensees shall obtain client consent when using electronic search engines to gather information about the client, except in circumstances when such searches may provide information to help protect the client or other parties who may be at risk. The licensee must document the rationale for conducting any electronic search and why it is not harmful to the client.~~
- ~~(7) Licensees shall provide links to websites for all of their certification bodies and licensure boards to facilitate consumer protection. Licensees shall provide a link to the board online license verification site on their web page.~~
- ~~(8) Licensees shall not provide services without client signed informed consent.~~
- (C) ~~Confidentiality in teletherapy service delivery and records maintenance shall be maintained by the licensee. No initial in person or face to face audiovisual visit is necessary to initiate services using teletherapy modalities.~~
- ~~(1) Licensees shall use encryption methods that are Health Insurance Portability and Accountability Act of 1996 compliant for teletherapy, except for treatment reminders, scheduling contacts or other information provided outside of a therapeutic context.~~
- ~~Clients may waive encryption via informed consent. Licensees must ensure clients understand the risk of non-encrypted communications.~~
- ~~(2) Licensees shall develop and disclose policies for notifying clients as soon as possible of any breach of confidential information.~~
- ~~(3) Licensees shall create a policy for the secure storage, recovery, and destruction of data, as well as the technologies used to store, maintain, and transmit data.~~

- (D) Licensees shall screen client(s) for appropriateness to receive services via teletherapy throughout the course of treatment, which includes considering their current mental and emotional status, conducive treatment modalities, and ongoing effectiveness of the service. The licensee shall screen the client(s)'s technological capabilities as part of the intake process and document any assistance provided to facilitate access. During the COVID-19 state of emergency as declared by the governor, licensees may:
- (1) ~~Provide services without completing an initial face to face video or in-person session;~~ Licensee shall regularly review whether use of teletherapy is meeting the clinical needs of the client(s).
 - (2) ~~Obtain and record verbal acknowledgement of informed consent when it cannot be obtained in writing; and~~
 - (3) ~~Follow guidance issued by the United States department of health and human services regarding compliance with HIPAA requirements.~~
- (E) A licensee is under no obligation to provide services via teletherapy if their clinical judgement indicates teletherapy is not an appropriate modality for delivering services to the client(s).
- (F) No licensee shall engage in teletherapy while operating a motor vehicle or similar equipment, nor shall any licensee engage in activities during teletherapy that do not allow the licensee to focus on the client(s) or prepare to document session. The licensee should terminate a session if it is determined while in a session the client is engaged in activities that could endanger themselves or others.
- (G) A licensee shall not provide teletherapy when either the client or licensee is in a setting where the confidentiality of the session could reasonably be expected to be compromised.
- (H) Licensees shall be aware of cultural and developmental differences and how they can affect non-verbal cues. Licensees shall also be aware of audio, visual, and cognitive impairment and the impact of these on the use of teletherapy services. Teletherapy methods should be appropriate to the client and their environment.
- (I) Licensees must maintain records in accordance with rule 4757-5-09 of the Administrative Code. Such records must clearly indicate when services are provided through teletherapy.
- (J) Licensees shall document all therapeutically relevant communication with client(s)s, to include emails, texts, instant messages, and chat history.

- (K) The licensee should ensure that practice or agency staff who are assisting a client(s) with teletherapy services or providing teletherapy services are adequately trained in the usage of relevant software or equipment.
- (L) Licensees are not responsible for client(s) misuse of teletherapy devices during the provision of services.
- (M)) During the initial session, licensees must establish informed consent in accordance with 4757-5-02(B) of the Administrative Code. Informed consent shall include information defining teletherapy delivery as practiced by the licensee, as well as potential risks, security issues, and confidentiality issue when receiving teletherapy. In the case of a minor client, the licensee must address any potential issues specifically associated with treating minors.
- (1) Client(s) shall be given sufficient opportunity to ask questions and receive answers about teletherapy. These discussions should be documented in the client(s) record.
 - (2) Informed consent should include a discussion of how teletherapy may affect billing and access to insurance benefits.
 - (3) Licensees shall document permission prior to recording any part of the teletherapy session. If licensees are storing audiovisual records from sessions, these cannot be released to client(s) unless authorization from the client(s) is obtained specifically stating the records are to be released.
 - (4) Licensees shall not provide services without client(s) informed consent which can be documented through verbal acknowledgement, online signature, or by signing a hard copy form. Licensees must make available to the client a copy of the consent documents regardless of the form of consent by the client.
 - (5) Licensees shall make available to clients links to websites for all certification bodies and licensure boards to facilitate consumer protection. Licensees shall provide a link to the board online license verification site on their web page.
 - (6) Licensees shall obtain client(s) consent when conducting web searches to gather information about the client(s), except when searches are of public criminal records/public safety databases prior to an initial session with a client or when such searches may provide information to help protect the licensee, client(s) or other parties who may be at risk.
 - (7) The licensee shall provide the client(s) information on how to access assistance in a crisis and outside of established business hours.

- (N) Licensees shall have a contingency plan for providing services to client(s) when technical problems occur during a teletherapy session, or when technical problems prevent a session from occurring. This plan may include information on other qualified therapists who can provide services if needed.
- (O) Licensees shall confirm the client(s) location at the time services are rendered.
- (P) Licensees shall comply with all requirements under state and federal law regarding the protection of client confidentiality while providing services. Each provider shall ensure that any username or password information and any electronic communications between the provider, client, or third parties are securely transmitted and stored.

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Certification

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